

PARLIAMENT OF KENYA**THE NATIONAL ASSEMBLY****THE HANSARD****Tuesday, 3rd August 2021**

The House met at 2.30 p.m.

*[The Deputy Speaker (Hon. Moses Cheboi) in the Chair]***PRAYERS**

Hon. Deputy Speaker: Hon. Members, we have the required quorum. Therefore, business will begin.

PAPERS LAID

Hon. Deputy Speaker: Under this Order we have the Leader of the Majority Party and probably the Whip of the Majority Party. Hon. Wangwe, are you the one representing the Leader of the Majority Party on this? Proceed.

Hon. Emmanuel Wangwe (Navakholo, JP): Hon. Deputy Speaker, I beg to lay the following Papers on the Table of the House:

Legal Notice No. 117 of 2021 relating to the Anti-Counterfeit (Amendment) Regulations of 2021 and the explanatory memorandum from the Ministry of Industrialisation, Trade and Enterprise Development.

Legal Notice No. 118 of 2021 relating to the Anti-Counterfeit (Recordation) Regulations of 2021 and the explanatory memorandum from the Ministry of Industrialisation, Trade and Enterprise Development.

The list of nominees to the National Government Constituency Development Fund Committees for Nambale and Sirisia Constituencies.

The Guidelines on Management of Human Resource in the Public Service during post-COVID-19 Pandemic.

The National Government Implementation Review Report for the first nine months of the Financial Year 2020/2021.

The National Government Constituency Development Fund Board Report for the fourth quarter of Financial Year 2020/2021.

The first quarterly report of the Ethics and Anti-Corruption Commission covering the period from 1st January to 31st March 2021.

The Reports of the Auditor General and Financial Statements of the Kenya National Assurance Company (2001) Limited for the years ended 31st December 2019 and 31st December 2020 respectively and the certificates therein.

The Reports of the Auditor General and Financial Statements in respect of the following institutions for the Financial Year ended 30th June 2020, and the certificates therein:

- (a) The Public Sector Accounting Standards Board;

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- (b) The State Corporations Appeal Tribunal;
- (c) The Islamic Development Bank (IDB) Capital Limited;
- (d) The Financial Reporting Centre;
- (e) The Kenya Deposit Insurance Corporation;
- (f) The Jubilee Party;
- (g) The Kenya Accountants and Secretaries National Examinations Board;
- (h) The Unclaimed Financial Assets Authority;
- (i) The Kenya Ferry Services Limited;
- (j) The National Oil Corporation of Kenya Limited; and
- (k) The Unclaimed Assets Trust Fund.

Hon. Deputy Speaker: Very well. We will go to the next Order.

ORDINARY QUESTIONS

Question No. 229/2021

OPERATIONALISATION OF NATIONAL CORONERS SERVICE ACT OF 2017

We will start with the first segment of this Order, the Ordinary Questions. The Hon. Zuleikha Hassan will start us off. She is not in the Chamber. We will have Hon. Nyenze.

Question No. 237/2021

MANAGEMENT OF CASH TRANSFER PROGRAMME FOR ELDERLY PERSONS

Hon. (Ms.) Edith Nyenze (Kitui West, WDM-K): Hon. Deputy Speaker, I beg to ask the Cabinet Secretary for Labour and Social Protection the following Question:

- (i) Could the Cabinet Secretary explain the status of registration of elderly persons, and disbursement and payments of money under the Cash Transfer Programme for Elderly Persons in Kitui West Constituency?
- (ii) What steps is the ministry taking to ensure that all registered persons who have not been paid their monthly stipends are paid, and by when will this be done?
- (iii) What plans have been put in place for effective management and control of the Cash Transfer Programme for Elderly Persons across the country?
- (iv) Could the Cabinet Secretary explain measures put in place to ensure that the programme runs seamlessly?

Hon. Deputy Speaker: Very well. I congratulate Hon. Nyenze for using her electronic gadget rather than the paper. That Question will be replied to before the Departmental Committee on Labour and Social Welfare.

Next is the Member for Matuga, the Hon. Tandaza.

Question No. 254/2021

ISSUANCE OF TEMPORARY HELB CLEARANCE CERTIFICATES FOR GRADUATES

Hon. Kassim Tandaza (Matuga, ANC): Hon. Deputy Speaker, I beg to ask the Cabinet Secretary for Education the following Question:

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- (i) Could the Cabinet Secretary clarify whether the Higher Education Loans Board (HELB) clearance certificate is a requirement for fresh graduates while seeking employment in public or state offices?
- (ii) Could the Cabinet Secretary explain how fresh graduates are expected to repay their HELB loans even before getting formal employment?
- (iii) Could the Cabinet Secretary consider issuing temporary clearance certificates to fresh graduates for purposes of assisting them to secure employment?

Hon. Deputy Speaker: That Question will be replied to before the Departmental Committee on Education and Research.

Next is the Member for Tarbaj, Hon. Bashane.

Question No.252/2021

STATUS OF INVESTIGATION INTO DISAPPEARANCE
OF MESSRS MOHAMED AND HASSAN

Hon. Ahmed Gaal (Tarbaj, PDR): Thank you, Hon. Deputy Speaker. I rise to ask the Cabinet Secretary for Interior and Coordination of National Government the following Question:

- (i) Could the Cabinet Secretary provide an update on the alleged abduction and subsequent disappearance of Mr. Bashow Yussuf Mohamed of ID No.27478661 and Mr. Salah Muhumed Hassan of ID No.21860349, by unknown persons suspected to be police officers, given that they have been missing since early 2021? The disappearance has caused immense psychological suffering to their friends, family and the wider Tarbaj Constituency?
- (ii) What is the status of investigations into the disappearance of the two persons and how many suspects have been apprehended or questioned so far regarding their disappearance?
- (iii) What specific measures has the Government put in place to protect Kenyans from the spate of abductions that have been rampant in the country during the last five years?

Hon. Deputy Speaker: That Question will be replied to before the Departmental Committee on Administration and National Security.

Honourable Members, that marks the end of Question Time. I would have given a chance to the Member for Nandi Hills, but I do not see him even though he had made a request. I think he decided that he would have it tomorrow.

POINT OF ORDER

REQUIREMENT FOR HON. MEMBERS INTENDING TO TRAVEL OUTSIDE KENYA

Hon. T.J. Kajwang' (Ruaraka, ODM): On a point of order. Allow me to make an intervention on a matter I consider to be of national importance. Forgive me because I should have made a formal request. This is a very weighty matter which, perhaps, we would have discussed as an adjournment Motion. However, allow me to bring this to your attention so that even when you decide how the matter will be handled, you will have the facts.

It is in public domain that three Members of this august Assembly went to a foreign neighbouring country for what they considered to be a private visit. As you know, once you become a public officer, there is nothing private in your visits. Even if you go for dinner in a foreign country---

(Loud consultations)

It would be interesting to know if the three Members...

An hon. Member: On a point of order.

Hon. Deputy Speaker: I will give you an opportunity later. Hon. T.J. is on a point of order. By the way, Hon. T.J., you have not made a formal request and therefore you go straight to the point.

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Deputy Speaker, I would like to know if the Members notified the Speaker of the National Assembly on their journey to that foreign country. Secondly, I would want to know the role that was played by the protocol staff of the Deputy President. As you know, the Office of the Deputy President is a constitutional office. When the Deputy President visits a neighbouring country, the protocol officers need to know that there must be consultation between the Office of the Deputy President and the Office of the President. This has exposed our Deputy President to ridicule given that the matter has been played politically rather than what it is.

Hon. Deputy Speaker: Let us stop it there. Hon. T.J. Kajwang' you are a seasoned Member of this House.

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Deputy Speaker, I do not rise on trivial issues.

Hon. Deputy Speaker: I know.

Hon. T.J. Kajwang' (Ruaraka, ODM): As for those Members who are restive, please, take it easy. We are not in a banana republic. We are just trying to make sure that things in this country are done in the way that they must be done.

Hon. Deputy Speaker: Hon. T.J. Kajwang' please, take your seat. As I have said, you are a seasoned legislator. On the first bit of Members having to seek permission from the Speaker to leave the country, the only reason they need to seek that kind of clearance is for purpose of attendance so that you do not miss out on the days. If it is proved that these Members did not get the Speaker's approval, the only thing that is against them is missing the sittings, which has two dimensions. The most important one is the constitutional issue of missing eight consecutive sittings in a session. Otherwise, on giving out permission to Members to travel, they are free. We are an independent arm of the Government.

Hon. T.J. Kajwang', as you have put it rightly, this is an extremely weighty issue. Those are issues you should canvass formally. It is a matter for which you can be given time. You need to do very well in such circumstances. When you raise the matter through a point of order, you may not have sufficient time to prosecute it well. I am not in any way trivialising what you have raised, but it has not come in the right manner. In any case, you have been heard. For the Members, I think that has been sorted out. Members would have no issue to ask for permission from the Speaker, especially when they have private trips. As for official trips, the Speaker is ordinarily the one who gives permission for such trips to materialise and is, therefore, deemed to have given Members permission to travel abroad. Unless you have another issue, let us proceed.

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Deputy Speaker, I am loyal. The restive Members should not take this as an opportunity to talk to the public. I am just raising weighty

issues which are constitutional. May I get your direction to the effect that this constitutional issue of the Deputy President being exposed to ridicule is a weighty issue, in respect of which I can write to your office so that we can discuss it as an Adjournment Motion? It is so serious that a whole Deputy President can be exposed and ridiculed in a manner that I saw yesterday just because of failure of protocol people. It is as simple as that.

Hon. Deputy Speaker: Hon. T.J. Kajwang', you have an issue that you can canvass. Please, follow the right procedure. That is all I can raise. Hon. Rasso wants to seek an intervention. Please, proceed.

Hon. Ali Rasso (Saku, JP): Thank you very much, Hon. Speaker. I think it is on this particular one.

(Loud consultations)

It is shocking that this is coming from Hon. Kajwang' – a man who would go to Uhuru Park and unconstitutionally swear-in one of the leaders of this country. However, the important thing is that there is nothing substantively before the House.

Hon. Deputy Speaker: Absolutely.

Hon. Ali Rasso (Saku, JP): If he wants to present that---

Hon. Deputy Speaker: But you have now also brought another issue. You are discussing your colleague without moving a substantive Motion whatsoever.

(Loud consultations)

So, you are not coming to equity with clean hands. I think that matter can be put to rest. We do not need to take too much time on something that is not formally before the House. However, for T.J., whom I am sure is meticulous when it comes to reading of rules and statutes; refer to Standing Order No.260, which explains both in English and Kiswahili the circumstances and what Members need to do when they are travelling outside. They should have a written notice for those who want to travel, if indeed they do not want to have the penalty of missing out a day. That is of course Standing Order No.261. You could also read paragraph (b). That would be very clear. You will realise that Members probably do not need to report to anybody other than notifying the Speaker for the purpose I have indicated.

Therefore, we can move to the next Order. Is Keter prepared? I do not think so. Therefore, let us proceed to the next Order. However, I see too many Members rising on points of intervention. I want to clear this bit. What is it, Hon. Limo? I hope it is not on the same.

Hon. Joseph Limo (Kipkelion East, JP): Hon. Deputy Speaker, it was also shocking to me for Hon. Kajwang' to speak things which are not supposed to be said by ranking Members. The Constitution is clear and he cannot pretend to be talking on behalf of the Deputy President. That is ridicule and we cannot allow it.

Hon. Deputy Speaker: Okay. You have gone on record. However, I did not get you quite well, but you have said what you had to say. I actually do not want to open up this because I can see Members who want to. Okay, just to clear with the lady, let us have Hon. Ong'era.

Hon. (Ms.) Janet Ong'era (Kisii CWR, ODM): Hon. Deputy Speaker, I do not know why this matter is raising a lot of hullabaloo. Hon. T.J. asked a very valid question and was seeking your permission to raise it. It is a matter of national importance that a Deputy President can be barred. We must know the reason. We must know why the Hon. Members of Parliament had sought

the Speaker's attention as is required under the Standing Orders. Therefore, Hon. T.J raised a valid point. You made a very good ruling that Hon. T.J. should formally seek your authority. Moreover, we are waiting for him, so that he can raise that substantive Motion.

Hon. Deputy Speaker: Just to satisfy Members, I want us to look at the Standing Orders together, so that this issue does not arise again. Let us go to Standing Order No.260. I want you to see that even if Members were to seek permission from the Speaker; that will not be disclosed to any other person. I want to read it for you, Hon. Members. I wish Hon. Ong'era would listen to this because I am directing it to her and Hon. T.J.

S.O. 260 (2). "All information submitted under this Standing Order shall be kept in a register which the Clerk shall maintain for that purpose and shall not be disclosed to any other person without the permission of the Speaker."

Therefore, as to whether or not those Members sought permission, you have to seek the Speaker's permission to get it. That is not a matter that should be discussed at all. If you want to bring any other issues, there are stipulated procedures. You are free to do that on any day other than today because you are already late. You should have notified the Speaker in good time. We will leave that matter to rest. If you want to raise it, do so formally and it will be given the attention it requires. Let us leave it at that, Hon. Members. I now see there are almost eight other Members who want to have a say on this. I do not think we really need to go in that direction.

Let us proceed to the next Order.

BILL

Second Reading

THE FOREIGN SERVICE BILL

(Hon. Katoo ole Metito on 7.7.2021)

(Debate concluded on 7.7.2021 – Evening Sitting)

Hon. Deputy Speaker: Order, Hon. Members. When you are asked to freeze, you do so. I confirm that we have the requisite numbers.

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

Hon. Deputy Speaker: Order, Members. Take your seats.

Before we go to that particular Order, I would like to guide the House. Before the House proceeds to the Committee of the whole House to consider the Parliamentary Pensions

(Amendment) (No.3) Bill (National Assembly Bill No. 57 of 2019), I wish to guide the House and the Committee as follows:

- (1) You will recall that at the rise of the House, during the afternoon sitting of Tuesday, 6th July 2021, the Committee of the whole House commenced reporting progress on its consideration of the Parliamentary Pensions (Amendment) (No.3) Bill (National Assembly Bill No. 57 of 2019), pursuant to provisions of Standing Order No.134. This process was, however, not concluded. At the time, the Committee had considered the Bill up to New Clause 13A;
- (2) In this regard and in line with the provisions of Standing Order No.132 providing for the sequence of a Bill in the Committee, what remained for consideration were New Clause 18A, Clause 3, Title and Clause 1;
- (3) In order to ensure completeness of the process, I will allow the Chairperson of the Committee of the whole House to conclude reporting progress before we can proceed to Order No. 9 in today's Order Paper; as the Bill is scheduled for consideration in Committee today;
- (4) As indicated in the Order Paper, the Member for Homa Bay Town, Hon. Peter Kaluma, has indicated intentions to move a recommittal of New Clause 13A. Further, the Member for Kanduyi, Hon. Wafula Wamunyinyi, proposes amendment to Clauses 8 and 9. As this part has already been concluded, the two Members will have to seek recommittal of the stated clauses in line with Standing Order No. 136 (a) if they still desire to move their amendments at the Committee of the whole House. However, I hope that they have time to appear before the Departmental Committee on Finance and National Planning during the short recess for purposes of consideration of their proposed amendments as ordered by the Speaker.

Thank you, Hon. Members.

Is the Chair of the Departmental Committee on Finance and National Planning in the House before we move to the Committee of the whole House? She will be the one moving the amendments. Therefore, in the absence of the Chair of the Departmental Committee on Finance and National Planning, I do not think there is any brief. This matter will be deferred. We cannot do it today because she is absent. We will defer it to tomorrow.

(Committee of the whole House deferred)

Hon. Deputy Speaker: Hon. Members, let us move to the next Order.

BILLS

Second Reading

THE COUNTY GOVERNMENTS (AMENDMENT) BILL

(Hon. Peter Mwachiri on 29.6.2021)

(Resumption of Debate interrupted on 7.7.2021 – Afternoon Sitting)

Hon. Deputy Speaker: Just a minute, Hon. Members. We are resuming debate on this particular Bill. Hon. Chairperson, let me confirm that...

Just a minute.

(The Deputy Speaker consulted with the Clerks-at-the-Table)

Hon. Members, of course the Chairman of the Departmental Committee on Finance and National Planning has appeared. Unfortunately, we had scheduled this matter to be worked on tomorrow and so we will proceed. As I have said, we are resuming debate which was interrupted on Wednesday, 7th July 2021. At that point, Hon. (Ms.) Nangabo had finished contributing. So, we will get any other Member who wants to speak.

Hon. Members, I will not be in a position to quickly know who spoke last time. So, please indicate if I gave you an opportunity and you spoke. Hon. Sankok, had you spoken on this? Anyway, you seem not to be interested.

Hon. Baya Yaa? From indication, let me see from the intervention slot those who want to speak. Otherwise, I would consider that probably the Members had concluded their wish to contribute.

Hon. (Dr.) Nyikal, please proceed.

Hon. (Dr.) James Nyikal (Seme, ODM): Thank you, Hon. Deputy Speaker, for giving me this opportunity to contribute to this Bill. The County Governments (Amendment) Bill is important. I must appreciate the work the Senate has done in bringing this Bill to us. It addresses the issue of human resource at the county level which is a big problem. It is part and parcel of the process of devolution. Human resource clearly indicates that we have to look at the processes that we have put in place at the county level. Human resource at the county level has several problems, one being numbers.

The county government inherited human resource from three different sources: The national Government staff who were at that level; the local authority staff who were at that level and they also employed staff. This employment at the county level has been influenced so much by the politics of patronage that arises from our electoral process to the extent that there are huge numbers at the counties. We all know that a lot of the funds that go to the counties end up as recurrent expenditure because of this. Moreover, the systems are complex and need to be built over time and this has not taken place. Therefore, we always see problems of trade union aspects such as people going on strike and abandoning work basically because of the huge human resource. The health human resource at the county is probably the most single deterrent to proper delivery of health services in this country.

The reason is straightforward. It is complex because we have many cadres in the health sector and all of them are hinged on national structures that are actually supported by law. Every cadre in the health sector has an association which is approved and registered by law. So, these associations are national in nature. Every cadre has a regulatory authority which is also based on law. That is a national structure in the manner in which it is structured and the way it operates. Almost every cadre has a union. Again, that is a nationally structured organisation that is anchored in law. The impact is how often there are conflicts between all these structures and cadres. The county governments have not put in place structures that will move these so that we have a smooth operation and transition. Many of the workers see themselves as working in the national structure. Therefore, if you have a problem for example with nurses in Laikipia, all the nurses across the

country through their unions, associations and various authorities see themselves as one, while the county government are seeing them as just a Laikipia problem. Since the law supports these structures, they can legally mobilise for a problem that is one county to affect the whole country and we always see this.

Hon. Deputy Speaker, there is a provision in the County Governments Act that where you have such an issue, we can seek the guidance of the Public Service Commission (PSC). I think that has not worked very well. As I said, an example is when the health workers in Laikipia and Kirinyaga went on strike. They went to court and appealed to the PSC which ruled in their favour. However, both county governments flatly refused to go by the guidance that was given. We ask ourselves why we have laws that we do not obey. The result has been the chaos that we have seen in the health sector.

Hon. Deputy Speaker, I think there is need to strengthen the County Public Service Boards (CPSB). So, I support the proposal in the Bill that the Chairman of the CPSB be somebody with expertise, competent and well qualified with a degree in Human Resource Management. Of all the amendments proposed, this is extremely important because with that experience and the other board members, those requirements that have been put in place will make it possible for the CPSBs to navigate the complexities of a human resource at the county level in relation to structures that still control the human resource which are nationally based and supported by law. So, unless we look at that area, we will continue to have these problems at the county level. People may think that this problem is only in the health sector, but the truth is, it is in all other sectors. It is just because there is not much noise that goes on if people in other sectors are not working properly.

With that, I support the Bill. Let us ensure that the Chair of the board is well qualified, has appropriate training and experience in Human Resource Management.

I support.

Hon. Deputy Speaker: Hon. Members, I see quite a number. I know Hon. Sankok had spoken. I had indicated that Hon. Baya Yaa seems not to be interested. Hon. Sossion, you want to speak to this one? Hon. Majimbo Kalasinga?

Hon. Duale you want to speak to this one? It seems there is no interest.

Let us have Hon. Kalasinga, and that should be the last one in my thinking because the rest of the membership does not seem to be interested.

Hon. Majimbo Kalasinga (Kabuchai FORD-K): Thank you, Hon. Deputy Speaker. I also support this Bill. Experience in one's relevant field has an advantage even to the worker. We believe that what is outlined in this Bill brings to speed the efficiency of the Human Resource Department at the county.

So today, I support this. We have issues with how counties are run simply because of lack of knowledge. That is why the Chairman should be well vast with experience and have a degree in some discipline. This will bring out the service of this department.

Thank you, Hon. Deputy Speaker. I support.

Hon. Deputy Speaker: Hon. Oundo on this one or the next one? You already spoke on this. Hon. Members, I will call the Mover to reply. Mover kindly reply.

Hon. Peter Mwachhi (Limuru, JP): Thank you, Hon. Deputy Speaker. From the outset let me thank all Members who have contributed to this very important County Governments (Amendment) Bill. I also want to mention that looking at the amendment, it seeks to leave out the qualifications of a Vice-Chairperson. We know very well that in the absence of the Chairperson the Vice-Chairperson will perform the duties of the Chairperson. So, we seek to amend and include that the Vice-Chairperson also has similar qualifications as the Chairperson.

Secondly, is the issue of the provisions of the PSC with regard to the Public Service Commission Act which provides the qualifications of a Chair? If you look at the crafting of the County Governments Act in terms of the human resource it has borrowed heavily from the Public Service Act, except where it diverges from the provisions of qualifications of the Chairperson. The Public Service Commission Act provides that one must be a citizen of Kenya and holds a degree from a recognised university in Kenya, as well as 10 years' experience in their respective profession.

If we must deviate substantively from the Public Service Commission Act then, it means we will go contrary to the provisions of the County Governments Act. So, we shall be seeking to amend this clause so that the Chairperson can have a university degree. These are the only two main issues, the rest of it as alluded to by Members is streamlining and ensuring the human resource performs in accordance with the requirements of their job description. This will translate into better output for the county governments.

Hon. Deputy Speaker, with those few remarks I beg to reply.

Hon. Deputy Speaker: Let me see if we have numbers. Order Members! We have the required numbers and I will put the Question.

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the whole House tomorrow)

Any Member who comes close to the Speaker should not vote because the decibels are close and I will think it is more than one person. Let us proceed to the next Order.

Second Reading

THE WAQF BILL

Hon. Deputy Speaker: Who is the Mover of this particular one? Yes, proceed Majority Whip.

Hon. Emmanuel Wangwe (Navakholo, JP): Thank you, Hon. Deputy Speaker. On behalf of the Leader of the Majority Party, I wish to move this, Bill. I beg to move that the WAQF Bill (National Assembly Bill No.73 of 2019) be read a Second Time.

The Bill seeks to repeal and replace the Wakf Commissioners Act, Cap 109 which is an Act of 1951 and in need of updating. This is to encompass the developments which have taken place since the enactment to regulate the administration of *Waqf*. I am largely informed that there was a legislative proposal seeking to amend the outdated Wakf Commissioners Act, Cap 109 with the same objective as this Bill. However, I was updated that the Hon. Member sponsoring the legislative proposal who was Hon. Abdullswamad Sheriff Nassir, Member for Mvita Constituency gladly accepted to drop it in support of this Government sponsored Bill.

Waqf forms part of the historical and cultural realities of the Islamic faith whereby Muslim faithful give their property to be administered by commissioners for the benefit of the faith. I understand that due to the passage of time, that is, 1951 when it was passed, the current law is incapable of serving its users well. It was developed based on the policies obtained during the

colonial era when Islam was largely prevalent in the Coast Province and categorised Muslim adherence based on race and therefore characteristically is out of date.

A case example is section 1 of the Wakf Commissioners Act, Cap 109 which empowers the ministers to give direction as to which areas of their country the Act should apply. Under Legal Notice No.164 of 1964 the Act was applied to the Coast Province. The faith has since spread to the rest of the country. Therefore, it is necessary to have changes to reflect that fact in the law. Just to expand on this briefly, the faith by then was only based in Mombasa but today, if you come to my constituency almost every village has a mosque. Islam is as good as Christianity in my constituency and the entire county of Kakamega is full of Islam.

This Bill emanated from the work of a tax force established in 2016 by the Attorney-General following a petition for review of the law by the Muslim faithful. The tax force comprised Muslim scholars, practitioners, representatives of the offices of the Attorney-General and the Chief Kadhi. The salient features of the Bill are captured in clause 3 which provides for the application of the Bill to the making of administration of Waqf in respect of all areas of Kenya. Indeed, the clause is exclusive and is showing it is covering the entire of Kenya.

Clause 4 provides for the criteria of validity of Waqf in accordance with the provisions of the Bill and defines how valid the Waqf in this Bill will apply.

“(a) it is made in accordance with Islamic law; and

(b) the ultimate benefit of the Waqf is expressly, or, if permitted by the personal practices of the Waqf, impliedly, reserved for the poor or for any other purposes recognised under Islamic law as a purpose of a permanent character”.

Therefore, the Bill also provides for the establishment of Waqf Commission and its composition as a body, corporate and the appointment, functions and remuneration of the Members of the Commission. It also provides for the appointment of the Director-General and staff of that Commission.

Further, the Bill provides for establishment of a selection panel for appointment of members of the commission, to election of the chairperson of the commission and the quorum required for meetings of the commission. The Bill updates the law concerning the management of Waqf, including registration of the commission and its administration, for enquiries into the administration by boards of trustees of Waqf registered by the commission and the manner in which those enquiries shall be determined.

Without getting into the specific provisions of the Bill, I have observed that the Bill seeks to update and streamline the law regulating the creation and administration of Waqf. The law that is current in force was enacted in 1951 – even before this country became independent. It has never been reviewed since then. This is the first time the Act is being repealed.

The Bill provides for the manner of dealing with any agreements made in respect of Waqf property and that Waqf property shall be administered in accordance with the intentions of the Waqf. The commission shall deal with unclaimed property of deceased Muslims, among others. Most importantly, the Bill contains transitional provisions that are quite elaborate to spell out the procedures on appointments that were made under the Wakf Commissioners Act, any proceedings initiated under the former Act and the staff or officers appointed under the former Act. Under the Bill, the sitting Wakf commissioners at the commencement of the Act shall remain in office to serve their terms of office. They will be replaced thereafter by new appointments under the new law. This is in the interest of the new community.

Hon. Deputy Speaker, with that, I beg to move and ask Hon. Aden Duale, in whose name the Bill is, to second.

The Deputy Speaker: Hon. Duale, have your time.

Hon. Aden Duale (Garissa Township, JP): Thank you, Hon. Deputy Speaker. I really want to thank the Majority Whip for struggling with this Waqf, which he does not really understand much. This law existed in 1951. It is called the Commissioners of Wakf, 1951, Legal Notice No.109. What is Waqf? Waqf is endowment of property in accordance with Islamic principles and is used for charity. It is an endowment made by a Muslim to a religious, educational or a charitable cause. This is drawn from the Holy Scriptures, the Quran. I really want to ask my colleagues from the Christian faith to borrow a leaf from what the Muslims have been doing for many years. Chapter 12 of the Quran says:

“By no means shall you attain piety rightfulness unless you spend from that which you love.”

So, what does “Waqf” mean? It means that Muslims donate as part of charity to the Waqf Commission for them to be used for Islamic purposes like building a mosque, an Islamic school or an orphanage. Even the Holy Prophet (May peace be upon him) says when a man dies, his acts come to an end except three things. One is recurring charity. Recurring charity here means Waqf. Another one is knowledge by which people benefit. If that person who has died has built an Islamic centre, a *madrassa* or schools, as people are learning in that Islamic institution, even after he dies his good deeds continue to accumulate. The last one is by giving or having offspring or your children who will pray for you when you die.

This Bill emanates from the work of a taskforce established by the Attorney-General emeritus, Prof. Githu Muigai – and I want to thank him – following a petition for review of the law that existed at that time. This taskforce was led by prominent Muslim scholars, practitioners, the Office of the Chief Kadhi and all the Islamic institutions. Their work ultimately brought us a draft Bill which was taken to the Cabinet for approval. So, this is a Government Bill.

Waqf is a historical and cultural phenomenon of religious significance, particularly of the Islamic faith. It is a charitable endowment under Islamic law. It involves donating a building, a piece of land or other assets for Muslim religious activities or for a charitable purpose with no intention of reclaiming those assets. Once you donate, you cannot reclaim it.

A person who constitutes Waqf or who gives his property is called the founder of Waqf. So that people understand, Waqf is the person who administers. In this sense, even that person who administers this religious endowment fund must be a person who is competent and at all times dedicated in managing such property and has a high Islamic standard. There are two types of Waqf or it falls within two categories. There is public Waqf. The commission that is anticipated in this Bill can form a public Waqf. There is a private Waqf that is done on a daily basis. For example, I who is talking to you, can do a lot of Waqf on behalf of my late parents. I can pay charity, build a mosque, an Islamic centre or an orphanage institution. Muslim faithfuls who have the economic muscle and who give *sadaka* and pay *zaka*... *Zaka* is the annual payment and taxes obligated by the religion on all Muslim faithfuls. It is a certain percentage. I will give you an example. I have 230 camels and I calculated the *zaka* due and I think I will end up paying three she-camels to poor people in the neighbourhood where my camels are. So this is an Islamic cultural and tradition anchored in the Holy Quran and in the teachings of the Holy Prophet (May peace be upon him.)

So, Muslim faithfuls who are able give their property to be administered by commissioners of Waqf for the benefit of Muslim faithfuls who require support, can do so. This is a colonial era law passed in 1954. We are now trying to change it because at that time, the Muslim population was within the coastal strip. Those who did history know that was the time of the coastal strip. Now Muslims are everywhere. They are in western Kenya, Nyanza and Rift Valley, among other

regions. This endowment fund must now cover the whole country. That is why we are saying even their representatives must come from the eight former provinces.

What are the conditions for Waqf? Number one; there must be a permanent dedication. It is something based on the faith and drawn from the religion. It is something that must have a permanent dedication on the person who is donating.

Two, there must be competence on the part of the person giving. In Islam, when one passes on, the law of inheritance comes into effect. So, even when one is a father, he can only give Waqf or distribute his wealth to a Muslim charitable institution when he is alive. The moment he dies, the resources or wealth is handed over to his offsprings, namely, his children and wives, in accordance with the Islamic inheritance law. That is why we do not see Muslims fighting over the wealth of the deceased because it is very clear what the first wife will get, what the daughters and sons will get and what the mother of the deceased will get. So, we never see Muslims fighting over the estate of the deceased. Muslims also make disclosure. We do not have many “come we stay unions” or many girls and women or men in apartments. The Islamic law is categorical. You only pay when you know it. The establishment of a selection panel for the appointment of the members of the commission, their functions, election of the chairperson and the appointment of the director-general are all covered in the third section of the Bill.

The many Islamic institutions that we see today, the big mosques in Nairobi and in other parts of the country, were done within the framework of Waqf. I ask my colleagues to understand that this is of religious and cultural importance. I am sure when we come to the Committee of the whole House, we will fine-tune it. The Bill is good. The ultimate is for the less fortunate and the charitable aspect of the religion not to depend on other people.

Hon. Temporary Deputy Speaker (Hon. Patrick Mariru): Your time is up.

Hon. Aden Duale (Garissa Township, JP): Please, give me time to conclude my contribution.

Hon. Temporary Deputy Speaker (Hon. Patrick Mariru): That is a fair request, Hon. Duale. I am sure you are educating many Members about this Bill. So, I will add you a few more minutes.

(Hon. (Ms.) Odhiambo-Mabona spoke off-record)

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Speaker, protect me from Hon. Millie. If she were a Muslim, she would not become a Kadhi. It is as simple as that. Thank you, my colleague. I joined Parliament with her in 2007 and she knows the role I played in her becoming a nominated Member of Parliament under the Orange Democratic Movement (ODM) Party. But that is now history.

I am sure most Members do not understand Waqf. It is just an endowment Fund anchored in the religion historically and culturally. How is the charity given by Muslims either through Sadaka or charity used? This is paid for. Contributing to the endowment Fund is complying with the teachings of the Holy Prophet, peace be upon Him, and complying with the teachings of the Holy Koran, Verse 92 of the Chapter Al Imran, where God says that by no means shall you attain piety and righteousness. If you want to go to heaven in the context of the Islamic religion, if you are blessed by Allah, you must donate to charity. The donation, whether in form of land or money, is put in an endowment Fund called Waqf. I thank the 12th Parliament and the former Chief Justice, Emeritus Githu Muigai and serious Muslim scholars who over many years deliberated over this matter. I also thank the Cabinet and the Government of President Uhuru Kenyatta for repealing

many colonial legal notices because they felt that with the expansion of the Muslim Community and with more resources available, we must have a modern law that conforms to the Constitution and that conforms to the transparency and accountability that Islam stands for and public finance in the Constitution.

I thank colleagues and although they may take long to understand, I am sure when they understand the Bill, many will join the Islamic faith. Hon. Sankok is already recruited.

I beg to second.

(Question proposed)

Hon. Mboko, Member for Likoni.

Hon. (Ms.) Mishi Mboko (Likoni, ODM): Asante sana, Mhe. Spika wa Muda. Kwanza kabisa, natoa shukrani zangu za dhati kwa Mhe. Aden Duale ambaye wakati alikuwa Kiongozi wa Walio Wengi alileta sheria hii. Pia, natoa shukrani kwa kiongozi Mhe. Wangwe kwa sababu amesoma Mswada huu wa Waqf. Mswada huu umeletwa ili kuvuta ile sheria iliyokuwa inasimamia mambo ya Waqf katika taifa letu la Kenya. Sheria iliyokuwa mwanzo imeacha mikakati mingi sana ya kuongoza na kutumika kwa Waqf ama rasilimali ambazo zinasaidia katika jambo kama hili.

Waqf ni rasilimali ama mali ambayo mtu, watu ama mashirika, wanatoa kukidhia mali hayo kwa haja ya dini ya Islam. Waqf huwa katika mikakati ya sheria za mirathi na sheria za sakada kwa mujibu wa dini ya Islam. Mara nyingi, kumekuwa na shida nyingi sana katika rasilimali ambazo zimetolewa kwa Waqf. Kule kwetu Mombasa, kuna majengo yaliyotolewa na watu kwa nia ya kusaidia katika misingi ya dini ya Islam. Kama alivyosema Mhe. Duale, pengine mtu anaweza sema kuwa kodi inayotoka kwa nyumba yake isaidie makadhi ama isaidie kulipa maustadi ambao wanafundisha madrasa tofauti tofauti katika sehemu fulani. Kuna watu wanatumia rasilimali kama hizo kama mali yao na kusahau haswa kuwa mali hizo zilitolewa kwa sababu gani. Pia, wanaacha kufuata sababu za kidini katika mali kama hayo. Vile vile, imekuwa ni shida kwa sababu watu wengine wamechukulia Waqf kama mali yao, ama mali ya jamii fulani ama mali ya watu fulani. Wasimamizi wamekuwa tangu mwanzo wanaonekana kutoka katika sehemu fulani katika taifa letu la Kenya. Lakini sasa ni wakati mwafaka wa kutengenesa kamati ya usimamizi itakayo simamia Waqf itakayohusisha makundi yanayosimamia Waislamu. Makundi haya ni lazima yawe yanajulikana isiwe kundi mtu amelitengeza kuwa la Kislam lakini kumbe lina maadhili na sababu nyingine paso sababu za kidini.

Tume ya Waqf itasaidia haswa kuleta ukweli ama *accountability and transparency*, vipi fedha ama mali kama ardhi na majengo ambayo yametolewa kwa Waqf yako, hali yaliyotelewa ama yanatoa mazao kiasi gani na kama mazao hayo yanasaidia jambo liliuiliwa katika waqf.

Kwa mfano, kule Mombasa, unapata nyumba ambayo imetolewa kwa Waqf lakini imekodishwa kufanya biashara ambayo ni kinyume na dini ya Kiislamu. Jengo moja kule Mombasa lilikodishwa kuweka kilabu kinachoitwa Salambo. Katika kilabu, kuna mambo ya pombe lakini katika dini ya Kiislamu, pombe ni haramu. Kwa hivyo, ni lazima kuwa jambo ambalo litanuiliwa ama biashara ambayo imetolewa kwa Waqf iwe katika misingi ya kidini na sio kinyume na misingi hiyo.

Kwa hivyo, tukiwa na hii Wakf Commission, sheria hizi zote zitakuwa sambamba na zitahakikisha kwamba hakutakuwa na dhuluma dhidi ya wale ambao wamewekewa jambo kama hili liweze kuwasaidia. Kuna rasilimali ambazo zimetolewa Waqf kusaidia madrasa kadhaa, watoto mayatima, akina mama wajane na misikiti ya kidini. Lakini unapata kwamba badala ya wale wasimamizi kufanya mambo hayo ya kidini, wanachukua zile pesa kama zao ama

wanazipeleka katika mambo ambayo hayakunuliwa katika zile rasilimali zilizotolewa kwa Waqf. Wakati tunachagua wale *trustees* ama tunateua wale makamishna, ni lazima wawe ni watu ambao watawakilisha Waislamu. Waislamu wako katika pembe nyingi sana za taifa letu la Kenya. Hiyo pia itawakilisha makundi ama *organisations* ambazo zinatambulika kuwakilisha Waislamu ili ziweze kufuata misingi ya kidini pasi na kufuata misingi ambayo ni tofauti.

Kwa muda mrefu, watu wamekuwa hawajui hesabu wala mapato ya rasilimali ama mali kama hizi ambazo zimetolewa kwa ajili ya Waqf. Sheria hii itaweka wazi na bayana kwamba katika rasilimali ama mali haya, mapato na mazao yake ni haya. Matumizi yake yatakuwa kwa ajili ya yale matumizi yaliyonuuliwa.

Pia, wakati mtu ametoa rasilimali au mali kwa mashirika ama kwa watu kadhaa katika Waqf, hawezi kurudi kusema kwamba anataka kuchukua mali yake. Ama pengine yule aliyetoa amefariki halafu watoto wake wanarudi kusema: “Hii ilikuwa nyumba ama ardhi ya baba yetu, kwa hivyo, tunataka ardhi hii.” Ukishatoa rasilimali yoyote kwa Waqf, iwe yule baba ama yeyote ambaye ametoa rasilimali kama hiyo yuko ama amefariki, hiyo rasilimali itabakia kwa ile nia aliyoinulia yule aliyetoa Waqf. Kwa hivyo, sheria kama hii itapunguza mambo kama hayo ambayo tumeona yakileta shida sana.

Kuna wakati hata unaona watu wanasukumana kwamba mali fulani haikutolewa kwa Waqf na mwingine anasema kuwa mwenyewe aliitoa kwa Waqf kwa muda fulani ama ilikuwa vinginevyo. Lazima ijulikane kabisa ya kwamba rasilimali hii imetolewa kwa Waqf kwa maisha yote, kama yule aliyetoa yuko ama hayuko. Lazima wasimamizi wafuatilie lile lengo na madhumuni kulingana na mujibu wa kidini ya Kiislamu.

Jambo kama hili halikuanza leo. Mhe. Duale amesema kwamba lilianza kitambo sana. Ni jambo ambalo linaambatana na dini yetu ya Kiislamu katika sheria za mirathi na sadaka. Ni kama tunazungumzia sadaka ya kuendelea. Kwa lugha ya Kiarabu tunasema, *Sadaqatul Jariyah*. Ni jambo ambalo litaendelea mpaka mwisho wa ulimwengu ama dunia.

Kwa hivyo, sheria hii ni muhimu sana na itasaidia watu maskini, wajane na watoto mayatima ambao wameweka malengo haya ya Waqf. Waqf inatolewa sana sana kwa njia kama hizo ili waweze kufanikisha malengo yao ambayo yamenuuliwa katika rasilimali kama hizo.

Pia, kuna watu wengi ambao wangependa sana kutoa Waqf lakini kwa sababu hapakuwa na sheria madhubuti ya kusimamia rasilimali kama hizo, huwa wanaogopa na pengine wanafanya mambo yao kibinafsi kwa sababu wanahofia pengine mambo hayatakuwa sawa. Lakini tutakapoipitisha sheria hii, kila mmoja atakuwa na ile ari ama nia ya kutoa fedha, ardhi, majengo ama njia yoyote ile anaona inaweza kuwa sadaka ya kusaidia katika misingi na mambo ya kidini.

Najua kwa sasa, Wabunge wenzangu wamefahamu tume ya Waqf ni nini. Naomba waweze kuichangia na kutuunga mkono ili kuwe na mfumo na muundo msingi wa kueleweka wa kusimamia rasilimali ama mali hizi ambazo Waislamu wametoa kwa minajili ya mambo ya kidini ya Kiislamu na ibada.

Naunga mkono. Asante sana.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. Abdi Yusuf.

Hon. Yusuf Hassan (Kamukunji, JP): Thank you, Hon. Temporary Deputy Speaker. I support this important Bill, namely, the WAQF Bill of 2019, that has been brought by Hon. Aden Duale. I thank him for bringing this Bill to the House. I also thank the Leader of the Majority Party for presenting it to us.

This Bill is important in two ways. First, Islam has five pillars. Among those five pillars is the issue of almsgiving, namely, *zakat*. As part of their practice, Muslims are required to contribute their income to help the poor and the less fortunate members of the community. It is important that

the Bill is acknowledging that particular diversity in our country. We are a multiracial, multi-ethnic and multireligious country in which all our citizens are respected and given the place they deserve in our legislation.

The second element of this particular Bill is that it is based on Islamic laws. Therefore, it allows Muslims to contribute openly and transparently under the legislation of our country, as some of the speakers have underpinned. If you look at the background of this particular situation, there is a lot of suspicion about accumulation and saving of money, particularly by the Muslim Community. When they raise money for their benefit, there is often a suspicion that perhaps this could be used for money laundering or for other illegal activities. So, it is important to anchor the contribution this particular community makes for its own upliftment and development towards the less fortunate members of the community in a legislation supported by the Government.

There is also the creation of the commission which will oversee and coordinate the activities of the money that is collected and put together for those particular purposes. There are many traditional methods that are out of sync with modern financial management and controls that are required by law. This commission will go a long way in providing that platform to the Muslim Community, so that they know where the money they are giving goes and how it is used. In the unfortunate situations where persons who have given the money pass away, there should be a system in place where the community can have an arbitration through an independent commission appointed by the Government that is based on the legislations of our country. This is very important in that sense and will go a long way in building the confidence of that community and the general Kenyan public to know that this is something that is above board, legal and managed properly using the commission that will be appointed.

With those remarks, I support this Bill. Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Omboko, Member for Emuhaya.

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Temporary Deputy Speaker, for this chance.

I will be a little limited because after the Mover moved this Motion, we got more explanation from Hon. Duale. I thank both Hon. Wangwe and Hon. Duale, especially Hon. Duale, for his clear explanation on what Waqf is and how it works within Islamic law. What I have understood about Waqf is that it is an endowment made by a Muslim to a religious, educational or charitable course. That is good because this will go a long way to help, improve, assist and excite and incite more people to donate for charitable courses.

I also captured from him very well, when he struggled with the histories, that this law was confined at the Coast. I am fairly an authority in history at my own level. It is true that at Independence, when colonisation had been done, the Sultan of Zanzibar was left by a strip, what was called the colonial strip. It was 10 miles wide. Therefore, there are some Islamic laws that were only applicable within the 10-mile strip along the Coast. That law continued to be administered by the Sultan. That is why Hon. Duale talked about Sayyid Barghash, Seyyid Said, alongside other Sultans who governed the Coast.

It comes out clear that Islam has since then spread into the interior of what was formerly called the protectorate. This was called the East African Protectorate. Therefore, there is need to extend this law beyond the strip into the interior where we have Islam. From that perspective, this is good because there is Islam everywhere. In Emuhaya where I come from, even just last weekend, we were burying the wife of the Deputy Governor of Vihiga, Bwana Saisi, who was a Muslim. We had the local Muslim leadership conducting the funeral. I remember veteran Raila was also present

in that funeral. I believe that in Vihiga, Emuhaya and other places in Kenya, we require this law so that such donations are made and it is also provided how they are administered. What is the surety that after such donations are made, they will go for the purposes the donor intended? That is without other persons coming in to own and use them not in the intended way.

In the spirit of the law, the commission will serve the entire country. It will not only be good for Muslims, but will also benefit Christians. If these donations were to go to schools and other charitable organisations, they will benefit the society. Such benefits may extend not only to Muslims, but also to all the people within the circumference of that society. Therefore, I will not take too long. I know from my historical background that Waqf can be of three types, though I will wait to hear from the owners, to challenge. There is private, public and mixed. I did not hear them talk about mixed type.

Thank you, Hon. Temporary Deputy Speaker, for this chance. I beg to support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. ole Sankok.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Temporary Deputy Speaker. I congratulate the Whip of the Majority Party for moving, and also the owner of the Bill, who is his Excellency, Hon. Aden Duale. He explained the Waqf Bill in depth. Today, I know Members who are not Muslims have really learned about the Islamic faith. I know quite a majority of us from this House, listening to Hon. Duale, will be recruited into this very important faith.

The Islamic faith has accepted civilization, but it is not westernised, unlike us, Christians, who are not civilised. We are rather more westernised because we have forgotten our cultures and adopted cultures from other regions of the world. But Muslims and the Islamic faith have maintained all the laws that were there and are still in the Quran. This endowment Fund is a very important one. Many persons with disabilities have benefited from this charitable work. This Fund has benefited widows, persons with disabilities and orphans. That is why we need to put it in law so that we can spread it to other parts of this country.

We also have such funds in the Christian faith. We have funds like the *panda mbegu*, *fungu la kumi* and *sadaka*. But because of lack of a legal framework, these funds in churches have ended up not benefitting charity works, not benefitting widows, persons with disabilities or orphans. Instead, they have become a green ground for pastors and men in cloth to feed on. Because this is a legal Fund that is controlled by laws, people have benefitted and we have learnt. Even Christians will learn from the Muslim faith on how to be men. There are no divorces, there are no love triangles, there is no this “send upkeep money” in Islam and within the Muslim Community. This is because they have accepted to be civilized, but still maintain their cultures and faith.

We are really learning a lot because we have such funds even in our Maasai culture, but they are not legalised. We have such ways and laws of distributing wealth. We know what will go to the first wife, what will go to the first son, and what will go to the lastborn. But because we have not legalised it, we have accepted westernisation rather than civilization. We have a lot of problems. We can learn from the Muslim faith.

What I have also picked is that this law is quite old. It was put in place in 1954 when only a coastal strip was an Islamic region. Currently, there is a mosque in every village. All our villages have Muslims, not only Muslims by origin or from the communities that practice the Islamic faith, but also those who have been recruited. I pride in ole Naado, the current Chairman of SUPKEM, who is a Maasai. He is the Chairman of SUPKEM. So, we have been recruited. Most of our communities have been recruited into this faith. We are really learning a lot. I really thank his Excellency, Hon. Aden Duale, who has educated us. I hope he will educate the whole country, all

cultures and traditions, so that we do not go to westernisation as we accept civilisation, so much forgetting our faith and cultures.

With those very many remarks, I support and hope many of us, before 2022, will be of the Islamic faith. Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Member for Laisamis.

Hon. Marselino Arbelle (Laisamis, JP): Thank you very much, Hon. Temporary Deputy Speaker, for giving me this opportunity to contribute to the Waqf Bill.

Waqf, as it is written or as it is understood in the Islamic faith, is any contribution, whether in terms of money or material, that is contributed for the sake of the Almighty God.

Hon. Temporary Deputy Speaker, it is the commandment of Allah, the creator of this universe, who has guided human beings to contribute because Allah loves those who contribute, give money and part of their wealth towards supporting the less fortunate people amongst our communities. An able Islamic faithful should donate to charity called Waqf. Muslims the world over are advised that, depending on the capability of somebody economically, they are required to give 2.5 per cent of their savings in a year in the form of Waqf. Unfortunately, we do not have laid down structures where you can say that this Waqf is worth so-much and it is well managed. Unfortunately, many people today give out charity in form of Waqf to individuals managing the affairs of mosques. Just like a Member alluded to earlier on, the general public will not understand who exactly are given all the Waqf. How is it managed? For that reason, it is much in order that this Bill has come before us so that any other individual in the Islamic circles who will want to contribute anything towards supporting Islam or towards cleansing himself will channel his contribution to Waqf.

Kenyans have been praised for their good heart in donating to charity. For instance, when Safaricom rolled out M-Pesa, it is only in Kenya where it has been seen to be very effective. This is because Kenyans at large have a very good heart in supporting one another. It is for that reason that you can see that through M-Pesa, Safaricom is making huge profits. That is exactly what God wants, unlike in other countries where maybe M-Pesa is not working. Maybe, they are mean. Kenyans have copied Muslims because many people are hovering around mosque and church areas begging for support in terms of food or material. Muslims believe in what Allah said that whoever gives a small or minute thing, God sees it and will be repaid to him. Also, in all the bad things you do in this world, however small or minute it might be, you will get the same response. You will come across billionaires all over the world, including Kenya, who stash a lot of cash in banks, but do not pay *sadaka* from the billions of shillings in their bank accounts yet some people are sleeping without water, food, shelter and roofs on their heads. People should know that we need to lean on this, so that we can please Allah because we are not here to live forever. How many people have lived on this earth but are not with us today? How many people owned properties, including skyscrapers, but are not here today? Where is their money? A lot of their money is stashed somewhere in banks unaccounted for. Some of the money has been repatriated to other countries. You can imagine a foreign country saying that there is an unclaimed asset from our country. Who are these? Where is the Government? They know that that person originated from our country and will request them to go and have that money. People should come to their senses so that we have institutions like waqf where such money is kept. We do not have to take money out of the country. We have many rich people in this country who have moved a step further to please Allah and would want to give out their money so that they can hold it tomorrow. For that reason, every county needs to have their Waqf account. When you want to deposit some money into a bank account, they ask you where the money came from and where you are taking it. They

have a lot of questions, but when it comes to Waqf, that is money you have dedicated to support some children, primary schools and hospitals. They cut across the country. It is up to the management of waqf to determine what they should give to schools and the poor. Some people need shelter.

We are told that a similar law was approved by the Cabinet in 1954, but it has not been actualised. Hon. Duale needs to be applauded for his effort to bring about this Bill. People of other faiths can also emulate this initiative. We also have many Christian organisations which are very wealthy and well managed. I have heard stories that sometimes in Europe, a billionaire who does not have a child would live with a pet in the house. Somebody would, therefore, write a will that his or her property be handed over to their pets. That does not really make sense. It is up to certain institutions to take over after the demise of such a person, so that that money is directed to correct use by taking it to Africa and other parts of the world where people are struggling with what to do in life.

With those few remarks, I support this Bill.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Wamalwa.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Speaker.

As I rise to support this Bill, there are some fundamental issues that need to be addressed. Article 8 of the Constitution says clearly that there shall be no State religion. This is a matter of religion. This is a House of records and traditions. This Bill was sponsored by the former Leader of the Majority Party. Was he sponsoring it as the Leader of the Majority Party or as the Member for Garisa Town?

(Loud Consultations)

The Temporary Deputy Speaker (Hon. Patrick Mariru): What is it, Hon. Nassir?

Hon. Abdullswamad Nassir (Mvita, ODM): Hon. Temporary Deputy Speaker, it is basic knowledge. I was expecting that someone who has equally been a Member of Parliament for as long as I have would know this. This is so simple. It reads here: Aden Duale, Leader of the Majority Party. Does he want us to translate this into another language that is knowledgeable to him? What else? Is it a problem that Aden Duale happens to be a Muslim and was the Leader of the Majority Party? Is there a problem with that? Hon. Temporary Deputy Speaker, I am still on my feet.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Yes, I am trying to get what the issue is.

Hon. Abdullswamad Nassir (Mvita, ODM): Hon. Temporary Deputy Speaker, we asked a simple question. We did not ask it based on morality because there is no law. We asked it based on incitement. Why is it that a Bill that involves Muslims and it so happens that Hon. Duale... I think you need to rule him out of order for even trying to castigate such kind of a thing. We do not need such kind of leaders in this country.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order! Hon. Nassir, that is fine. I have heard you. What is the point of information, Hon. Kajwang'? Who are you directing it to?

Hon. T.J. Kajwang' (Ruaraka, ODM): To the Hon. Member for Kiminini. Would he accept information from the Vice-Chair of the Departmental Committee on Justice and Legal Affairs?

The Temporary Deputy Speaker (Hon. Patrick Mariru): Yes, proceed.

Hon. T.J. Kajwang' (Ruaraka, ODM): Thank you, Hon. Temporary Deputy Speaker. Let us debate from a point of knowledge and remove excitement and religious interests from this issue.

Hon. Member, this is a Government Bill committed to the Departmental Committee on Justice and Legal Affairs. I have not spoken. I am waiting for Members to speak so that you get the legal opinion after everybody else has spoken. It is a correct Government Bill that was signed off by the former Leader of the Majority Party, who happened to be a Muslim like all of us who happen to be in one religion or another. It has been recommitted to my Committee. We are considering it. If Members are contributing to it, contribute on issues of fact and law and avoid the sideshows because they do not help at the end of the day.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us say that this Bill is sponsored by Hon. Aden Duale as the Leader of the Majority Party. Although it has a religious perspective, it is a national law. That is why it was brought to the National Assembly and we have Muslims and Christians contributing to it. It has come to the National Assembly. That is why, Hon. Wamalwa, you are on the Floor to contribute to this important Bill.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Speaker. I think there is a misunderstanding by Hon. Sheriff of Mvita. How I wish I could speak in Kiswahili to him, so that he can understand my issue. My issue was not what he intended. I wish he had listened. If I had known better Kiswahili, maybe he would have understood better. Give me time to clarify my issues. I started by saying that there are some fundamental issues that need to be addressed. I had just started. This House always says that when a Bill comes for the Second Reading, we must have a Committee report. Unfortunately, as far as this issue is concerned, we do not have a Committee report.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Wamalwa. There is a point of order from Hon. Jaldesa. Let us hear her.

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): Thank you, Hon. Temporary Deputy Speaker. Is it in order for *Mheshimiwa* Chris to state improperly that the next Governor of Mombasa County does not understand the Queen's Language? Is it in order? We need to be tolerant. *Mheshimiwa* Wamalwa is trying to bring religious intolerance to this House and it is not acceptable.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Nassir. At least, when I am here, I will not allow religious intolerance. To that extent, I do not think Hon. Wamalwa has portrayed that. He is just raising some issues and prosecuting his case. Proceed, Hon. Wamalwa

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Speaker. There are some matters which can better be explained in Kiswahili and others in English or mother tongue. The Member for Mvita should not be jittery because he did not listen to my issue. Listen properly. English is a foreign language to everybody and it takes time.

Ordinarily, any Bill coming for the Second Reading must have a Committee report. Article 118 of the Constitution is clear that there must be public participation when it comes to matters of legislation. It is important that before we debate a Bill, the relevant Committee looks at the issues that have been brought out or pointed out, as far as the Bill is concerned, and Members will participate or debate on an informed perspective based on the report of the Committee.

This Bill deals heavily with matters of Islamic law. When it comes to public participation, particularly when it comes to judgmental determination, we have schools of academia which have really looked into matters of Islamic faith. On such a matter, a Member of Parliament might be interested in the public participation when there is a report.

(Loud consultations)

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. T.J Kajwang', I will certainly give you an opportunity because you are a Member of this Committee. Let Hon. Wamalwa proceed. Hon. T.J Kajwang', I will give you a chance.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): The reason I am emphasising on the matter of a report from the Departmental Committee on Justice and Legal Affairs, as emphasised in Article 118 on public participation, is to look at such issues. Unfortunately, we are debating this when we have no report.

As we move forward on this matter, the intention is good, but it can be abused. Funds come into the country and if there is no proper framework, they end up enabling unlawful things. We have been having issues of youth radicalisation in this country. When you look at this Bill, the concern I am raising is actually genuine. When this issue comes on board, it is important that we debate it objectively. This is a House of debate.

As I move forward, how I wish there was a clear framework on the issue of beneficiaries. The Member told me that the beneficiaries of Waqf are only supposed to be Muslims. Let me finish. When I raised an issue with the Member for Kamukunji, he told me that the money can go to anybody, not necessarily a Muslim.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Wamalwa. When your colleague says he is on a point of order, you have to listen. Hon. Kajwang', I know I am still keeping you pending. I will give you a chance after Hon. Nassir because you come from the relevant Committee. Hon. Nassir, what is out of order?

Hon. Abdullswamad Nassir (Mvita, ODM): Hon. Temporary Deputy Speaker, is it in order for the Member to try and say that he was asking me questions when in actual fact he was misleading the House? I am more than willing to take him through what this Bill is about in any language that he would like and prefer. However, do not try and get hysterical in nature. You are jittery.

Hon. Temporary Deputy Speaker, it is not in order for him to mislead the House by insinuating that I misled him?

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Nassir. You are neighbours. You can converse because Hon. Wamalwa needs a bit of education about the Islamic faith. He is genuinely asking for that. Because you are neighbours, I am sure that even after this, you will have a bit of discussion. I also find that important information is coming across. Hon. T.J Kajwang', do you want Hon. Wamalwa to be done before I give you a chance? It will give us a substantive note on this one. However, let Hon. Wamalwa finish.

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Speaker. This is a House of debate. How I wish you would give me more time because I have been interrupted. I have not even finished my debate. The issue is that when someone rises on a point of order, he should say what is out of order. A matter of debate should be given an opportunity. The reason we debate is that the Mover of the Motion or the Bill needs to look at the issues that he or she needs to respond to when it comes to replying. I am actually in order. We are trying to debate. We want to make this Bill better. When a matter comes to the Floor of the House, it becomes the business of the House. When we go to the Committee of the whole House, we will have to amend accordingly to improve the Bill for the benefit of everybody in this country. How I wish we could amend and say that the beneficiary does not necessarily have to be a Muslim. It

must be explained here because this is dangerous. We have seen funds availed and the youth are sidelined in this country for lack of a clear framework on how the funds are to be used.

Otherwise, I support this Bill. However, during the Committee of the whole House, we will amend, so that we do not bring in legislations which can be dangerous to this country.

I thank you and support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Wamalwa, you earlier raised a matter about the issues of the Committee report on this. On one side, that is a fundamental issue that you have raised, but luckily, the Standing Order does provide the situation we are in such that in the event the Second Reading commences before the report of the Committee is tabled... Member for Likoni, whom do you want to inform? Is it the Temporary Deputy Speaker, who is speaking?

Hon. (Ms.) Mishi Mboko (Likoni, ODM): Hon. (Dr.) Chris Wamalwa.

The Temporary Deputy Speaker (Hon. Patrick Mariru): He is already done, unless you want to inform Hon. Temporary Deputy Speaker, who is on the Floor now.

Very well, let us address the issue of Hon. (Dr.) Wamalwa on Committee report. This Bill is okay to be here now. In the event there is a Second Reading and the report has not been tabled, all you need is a relevant committee to give progress. Luckily, we have Hon. T.J Kajwang' present from the relevant Committee. I will give him this chance before I open to other Members, to comment not on the preliminary issues, but on the substantive Bill. Please, proceed.

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Speaker, the problem that we have is that some Members do not want to take advice and when advice is made available, they sometimes display intellectual superiority over things which should just be plain.

Hon. (Dr.) Wamalwa should accept that I am the Vice-Chairman of the Departmental Committee on Justice and Legal Affairs. While I am here on matters of this Committee, he should accept to get some advice because then we will be guiding this House properly. It is true that there is no report before the House, but the Temporary Deputy Speaker has guided us well that under the Standing Orders, where there is no report and yet a matter has been scheduled for Second Reading, the Standing Orders states that the House will proceed with that matter notwithstanding the absence of the report and the relevant committee will prepare the report. This is because the report is most useful in the Third Reading when we make it law.

Let me request you, Hon. Temporary Deputy Speaker, that for issues that I am discussing with my Members, let Members debate. I understand the Member for Kiminini to be debating. That is what we need to encourage. Let as many Members as possible give their opinion in this matter. However, the report of the Committee will be available to Members as we progress.

So, I was asking that we have more time to debate on this issue. As you see, those of us in the Committee have not expressed our views on this. We are waiting for the rest of the Members to have as much opportunity as possible, then we will give our views on it. Therefore, we beg you not to call the Mover to reply on this, but allow it some more time when Members of the Committee will express their view.

Something like this is a legal issue. Let me tell Hon. (Dr.) Wamalwa that it is a unit of study in the Faculty of Law. So, we do not have issues of radicalisation and so on. This is a legal issue that comprises members of a society, so that if we sensationalise this issue, we will see reports outside there which are misleading. I do not blame him because he did not spend time in law class, but spent time in finance class and I congratulate him for that. However, take advice from some people who spent some time, like the Member for Suba North. They took some time to study this as a unit in the faculty.

Hon. Temporary Deputy Speaker, I just ask that you do not call the Mover to reply, so that you can give us more time to give you the legal perspectives concerning this Bill. I thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Fair enough, although the final request that you have asked for me not to call the Mover to reply will come much later. I can tell quite a number of Members want to speak to this and I want to give them a chance.

Let us have Hon. Obo Mohammed.

Hon. (Ms.) Ruweida Obo (Lamu, CWR, JP): Asante, Mhe. Naibu Spika wa Muda, kwa kunipatia nafasi name nichangie. Nimejaribu kuweka alama ya nidhamu kwa muda mrefu lakini sikupata. Nafikiri katika mazungumzo haya nitamjibu Mheshimiwa.

Mwanzo, ninawapongeza viongozi wa Bunge hili kwa kuweza kuleta huu Mswada. Pili, ninapongeza Tume ya Waqf iliyo chaguliwa na Rais wetu mpendwa ikiongozwa na Mwenyekiti wao, Mhe. Zuber Noor, Sheikh Juma Ngao na Gibsham Sang, Hussein Sharriff na wakili Mwanakitili. Hawa ni wasomi wenye sifa nzuri kwa jamii. Kwa hivyo, walifanya huu Mswada ukawa mzuri na tunauamini.

Uzuri wa Mswada huu sio kwamba hii sheria inatungwa sasa hivi. Ilikuwapo lakini kwa upande mmoja, tusema wa Pwani, lakini hii sheria sasa itakuwa ni ya Kenya mzima. Hapo inastahili tuelewe kwa wale ambao bado hawajaelewa. Sheria ipo lakini hii inaongeza maeneo. Pili, mambo ya pesa yameangaziwa vizuri. Itakuwa watu hawana wasiwasi kwamba pesa zimetumiwa vibaya. Mambo haya yameangaziwa vizuri katika hii sheria. Wakati wa kuomba nafasi katika tume, itakuwa mtu anatuma maombi na haitakuwa ni watu wale ambao watakuwa katika tume siku zote. Pia, imepatiwa nafasi na uwezo wa kujiendeleza. Kwa hivyo, ni sheria ambayo imeongezwa ili ifanye kazi vizuri.

Mimi nashangaa na Mheshimiwa mwenzangu kusimama na kusudi ya kuleta taharuki hapa. Nimeshangaa haya mambo ya *radicalisation* yameingia vipi hapa. Hii ni kusudi tu kwa sababu wanataka ionekane kama kuna taharuki na hakuna. Mwanzo, hii sheria ikipita ndio pesa zitajulikana zinatumiwa na kuingia vipi na kuenda wapi kwa sababu hesabu itakuwa sawa sawa.

Pili, si sawa kwa Mbunge mwenzetu kufanya kama lugha ya Kiswahili ni dhaifu ambayo haifai na mtu akizungumza Kiingereza ndio anakuwa msomi. Huko kwetu pwani kuna *beachboys* tele na wanazungumza *fluent English* na hawakuenda hata darasa la kwanza. Kwa hivyo, asijifanye na kizungu chake pengine amesoma na hana hekma. Waqf ni nzuri na naomba Wabunge wenzangu tushikane na kuipitisha isiwe kama kuna vuguvugu inaendelea. Kwenye mitandao tunaona wanasema Wakristo wanafanyiwa hivi na Waisalamu hawatafanyiwa hivyo. Hayo si mambo mazuri ya kuchochea hapa Kenya. Hapa Kenya tumekaa vizuri na kwa mambo ya dini tumeshikana. Kwa hivyo, tuendeleo kushikana kabila na dini zote hapa Kenya.

Asante sana, Mhe. Naibu Spika wa Muda.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Jaldesa.

Hon. (Ms.) Rehema Jaldesa (Isiolo CWR, JP): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to contribute to this very important Bill. As I do so, I take this opportunity to thank the Majority Whip for moving this Bill and presenting it so well. I also thank *Mhe. Adan Duale* for going into details and making the Members understand what waqf is all about. I also thank all the Members for contributing and for the tolerance they have demonstrated here.

I want to go back and explain what waqf is all about. It is very simple and is property dedicated to the society for example, a building or piece of land for religious and charitable purposes. As I define this, I want to make a very special tribute to one, Sheikh Abdullahi Golicha Guyo Wama from my county. I wish *Mhe. Duale* and *Mhe. Shakeel Shabbir* were in the House to

support me on this. I am sure my brother here will agree with me that he is a known leader in this country who has demonstrated what waqf is all about. In my county many people including the MP for Isiolo North are beneficiaries of a waqf. He was educated from the proceeds of waqf from primary school all the way to university. Many students from Isiolo County and especially those from poor families have benefited.

We have Merti Waqf in Merti sub-county, where we have both Christians and Muslims. Most of the people in my community have benefited from waqf and this should answer what *Mheshimiwa* is asking. The law is put so there is clarity. *Sadaqah* is one of the pillars of Islam and you do not choose whom to give *sadaqah*, you can give it to a Muslim or Christian. However, this is a specific fund that is distributed for an Islamic course. Therefore, it is not right for *Mhe*. Chris to try and bring confusion here. This should be very clear because I am a Muslim and I pay *sadaqah* even to Christians. It is so personal that it is said when giving with the right hand even the left hand should not know.

This is totally different and is a fund that is donated for a course. Most of the people donating this fund do so on behalf of their deceased family members so it becomes a *sadaqah jariyah* because we feel those who are dead will have life after it goes towards helping them. If they had sinned then their sins are forgiven. Therefore, establishing this Commission will bring a lot of clarity and ensure accountability and transparency in how this fund is regulated. I have just told you about one old man, Sheikh Abdullahi Golicha, who never married in his life because if he had children, probably he thought the money would somehow go to his family. So, he dedicated it and has a waqf built in Isiolo for collecting rent and helping the poor. He is educating and helping orphans. Therefore, I want to invite my brother Chris one of these weekends to accompany me to Isiolo so he can really appreciate what this fund does for people.

Sometimes back there was a lot of propaganda and bad publicity that money coming from outside the country in terms of donations was funding illegal activities like *Al-Shabaab* and others. It was given a lot of negativity and the poor in this country suffered. When we establish a waqf with clear trustees who can be sued and sue, we will establish the source of funds and how they are utilised. That way, there will be prudent utilisation of resources. It is said that all waqfs will be registered by the Commission. Registering the fund in a Commission will make it possible for it to be followed up on daily basis to know who the beneficiaries are, how it is being utilised and where the funds are coming from.

I am quite excited because they said if the trustee fails to utilise the funds as per the regulations, then the funds can even revert to the families and these are some of the things that were lacking. There are some funds in this country where all family members have gone and are not under anybody. Therefore, the fund is just there with no way of regulating it. When I went through the Bill, it was captured on how such a fund can be put in the waqf. I think this is one law that should have been enacted way back. It would have gone a long way in supporting the poor and bringing clarity. I want to appreciate the Departmental Committee on Justice and Legal Affairs and the Vice-Chair who is here for guiding us very well. Thank you so much. Let us fast-track this and ensure it works for this country. I am inviting Members to come to my county for benchmarking because this is where waqf has really worked.

Thank you, Hon. Temporary Deputy Speaker. I support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Odhiambo Akoth.

Hon. (Ms.) Millie-Odhiambo (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me this opportunity. It is 'geza geza' and not 'sega sega'. You know this is a brand Millie and 'geza geza'.

Hon. Temporary Deputy Speaker, I just want to say that contrary to what Members are saying here, I do not think we should make this Bill an Islamic Bill. The moment a Bill comes to the Floor of this House and the House is seized of it, it is a Bill of the National Assembly. We should refrain from making it look like when Members support it, they do so because they are Muslims and those who oppose it do so because they are not Muslims.

I have listened to Hon. Chris Wamalwa very clearly. Even some of the points of order raised were premature because he was raising concerns that we should listen to instead of hounding him. I just want to say that I support but even in doing so, I have issues that I want to raise. The Wakf Act has been there before but what this Bill is seeking to do is to expand the scope and when it is doing so, we must test it against constitutionality. In testing it against constitutionality, the guiding principle is that the Constitution only allows discrimination on matters of personal law. We must test it against personal law. I do not think it is right for people to challenge us that we are not friends of Muslims if we raise issues that are constitutional. We must taste it against governance standards. The moment taxpayers' money is being used over an issue, I must raise governance issues. Otherwise, I will also bring here issues of Seventh Day Adventists, to which I belong; we pass and nobody should talk about it. However, the moment a Bill comes to this House, it belongs to the House and let every Member support it. There are issues I support here and not every Member opposes the issues that I may oppose here.

Hon. Temporary Deputy Speaker, I just want to say that my fellow Christians should not behave as though they have never read the Bible. The Bible is very clear about giving. So, let us also not talk like this is something so new that we have never seen or heard of. I respect my good friend and brother, Hon. Duale, but I can assure him that I am not changing my faith any time soon because he has brought the Waqf Bill. I can tell him there are more than 30 provisions in the Bible that talk about giving. I can give a few examples. Proverbs 19:17 says whoever is generous to the poor gives to the Lord. Romans 12:13 talks about supplying the needs of the saints. If you look at the letter that Paul wrote to the Romans, he was actually on a mission of fundraising for the poor. It talks about several people. Actually, if you look at the last chapter, which is Chapter 16, he is sending greetings to several people and encouraging them and giving them accolades for supporting the church. So, what the Muslim faith is doing is similar to what the church is doing and none is superior to the other. On issues of faith, I do not think we should be talking about which one is superior or not. Let us just respect each other's faith and see whether the standards that we are providing here are constitutional or not.

Having said that, I want to say that even as much as I support the Bill, because I think to a great extent it meets the constitutional standards of personal law, I would be concerned about certain aspects that I think are going beyond. I will be bringing amendments. Because they are very many, I may not mention all of them. So, I will pick just a few. Let me wear my glasses. The Bill basically sets a structure for Muslims to endow property or cash to a religious, charitable or benevolent purpose in accordance with the Islamic law. I was listening very carefully to Hon. Aden Duale. Just like Hon. Chris alluded to, I want to see where in the Quran it excludes other faithfuls. If he convinces me it is in the Quran, I will not argue. The way I do not argue with the Bible, I do not argue with the Quran. The Bible talks about including everyone, including Muslims. So, there is no reason to exclude Christians in getting money from the waqf. Therefore, I think I will bring an amendment to ensure that it includes everyone that may be needy. Some of the issues I want to raise are on the definition of *waqf khairi*. It would be tidy if you added the word "solely" so that you make it clear from *waqf ahli* for individuals and for *waqf mushtaraq*, which is a blend of both. I wish Hon. Duale was here because then he could understand what I am saying.

In Clause 4, is there a specific Islamic law relating to waqf that can be re-stated here in law so that lawyers do not go digging in case of disputes? Those are issues we need to sort out here. Otherwise we will have a problem when these matters go to court. I also want to indicate that I used to practise in the Kadhi's Court representing women. So, I know what I am talking about. The proviso in Clause 4 makes any property subject to a waqf and only property intended and declared as such should be included but the provision makes almost every property subject. Again, looking at Clause 4 (2), it seems to create trust in perpetuity for unknown causes. That is very dangerous. It might go back to the property of... My greatest grandfather is called Magazime. I will look for the property of Magazime and make it a property of waqf if we can declare that he was a Muslim. We cannot create succession in perpetuity.

Clause 6 and other clauses refer to trustees and even mete out punishment to them. I think that is one of the things that even my friend, Hon. Jaldesa, is saying as a positive, which indeed it is, but how are they established or appointed? This Bill does not tell us how the trustees are established or appointed. They are not legal entities by this law hence they cannot be held to account. We cannot subject a lot of property to this Act when we are not able to establish trustees by law and hold them accountable by law. So, if we say we are punishing the trustees and we are taking them for life or how many years, who are they? The law does not establish who they are.

In Clause 7, the word "or" between (d) and (e) in the last sentence creates a different meaning. It implies those under (e) may not be subject to the panel. It is actually an error which I hope the Departmental Committee on Justice and Legal Affairs is looking into and it will sort it out. In Clause 7 (2), it is said that the selection panel shall comprise five eminent Muslims of either gender. What that means is that you can actually select only men or you can select only women. That is also unconstitutional. I think the person who was crafting this did that in error because it should be two-thirds. The selection in representation is not excluded. Governance issues are not excluded even when we are dealing with Muslim issues that come to the Floor of this House. Clause 7 (4) states that the selection panel shall invite views from Muslims in respect of the shortlisted candidates. My immediate neighbour is a Muslim and a very nice guy but suppose he was a terrible person who is a night runner who gives us stress in our neighbourhood and I see his name listed, my view shall not be taken because I am a non-Muslim. Hell, no! I will give my views by law. So, we cannot exclude and say that we will not give views because we are not Muslims.

Hon. Temporary Deputy Speaker, I can see my time is almost up but I have several governance and constitutional issues that we must bring to make sure that we tighten this law so that it meets constitutional standards. I want to encourage my Muslim sisters and brothers. I have a very big population of Muslims in the constituency that I represent here. Once this law is here, it is a law for Kenyans. This is the National Assembly. We will strengthen it the way we strengthened other pieces of legislation. It does not mean we oppose you.

With those remarks, I support the Bill with amendments.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Nassir.

Hon. Abdullswamad Nassir (Mvita, ODM): Asante sana, Mhe. Naibu Spika wa Muda. Naanza kumuomba Mola apanue mbavu zangu, anirahisishie majukumu yangu, anitatulie fundo katika ulimi wangu ili walioko waweze kufahamu yale ninayosema.

Waqf kwa lugha nyingine yoyote ni kile mtu anachokitoa kwa ajili ya Mwenyezi Mungu. Kuhusu wagf, wazee wetu wa karne zilizopita, kabla Kenya kujulikana itaitwa Kenya, walitoa mali yao na wakaamua kufuatia mafundisho ya Koran na Bwana Mtume, ambaye tunamsualia. Walifuata mafundisho katika mambo watakayo yaacha hapa na ambayo yatawaridhi. Moja wapo ni heri unayoifanya iendele, lingine ni elimu ambayo inapatia watu faida, lingine ni mtoto

mwema, na tunaomba Mwenyezi Mungu kuwa tujaliwe kwa sababu ya wazee wetu kufika pema palipo na wema.

Nimesikia wengi wakizungumza hapa kwamba jambo la waqf si jambo geni katika Kenya. Sheria hii imekuwepo tangu mwaka wa 1948. Tunalofanya sasa hivi ni kujaribu kuirekebisha sheria hii. Kama wenzangu wamezungumza, madhumuni ya kuifanya sheria ni iweze kuandamana pamoja na Katiba ya Kenya. Nataka tufahamu kuwa vile sheria ilivyo sasa, haya ni mapendekezo ya kuibadilisha ambayo inaweza kuhukumu masuala ya waqf. Wakiwemo ndani yake kwanza, zamani tulikuwa na *Provincial Commissioners* ambao katika sheria ilivyo hivi sasa ni *PCs*. Pili, Kadhi Mkuu wa Kenya ambaye hana kura. Tatu, Muislamu yeyote ambaye anachaguliwa na Waziri ambaye anafahamika katika sheria ilivyo, na Waziri ambaye alikua anahusika na masuala ya sheria wakati huo. Kisha, Waislamu watano ambao wanachaguliwa na gavana, sio magavana walio sasa hivi katika Katiba. Kwa wale wanaofahamu historia ya Kenya, sehemu za Pwani zilikuwa na magavana. Sheria ya mwaka 1948 inasema kuwa *PC* wa wakati huo angechagua kisha gavana apitishe watu watano wengine. Kuna tofauti kati ya sheria ya hapo awali na sheria ya sasa. Sasa hivi tunazungumzia watakoachaguliwa. Kwanza, ni mtu ambaye amesoma dini, pili, mwakilishi ambaye anaweza toa. Tukizungumza kuhusu wasimamizi (*trustees*), ni wale ambao waliotoa. Tatu, mwakilishi ambaye atakayefaidi, nne, mfanyibiashara maarufu, tano, aliyesoma sheria, wakili. Sita, mweka hesabu, mtu ambaye amebobea katika hesabu. Saba, aliyebobea katika hesabu za masuala ya ardhi, nane, anayefanya kazi na jamii, *social worker*. Ikiwa kuna sheria ambayo hailingani na Katiba, ni hii ambayo inafanywa sasa ama ile inazungumza kuhusu *PC* na magavana ndio wenye kuchagua. Tena sio kuchagua mtu yeyote, kama dada yangu alivyozungumza kuwa ni lazima mtu atakaye chaguliwa awe na nidhamu fulani. Tena wanaochaguliwa hapa, sheria hii inasisitiza kuwa ni lazima waweze kupita mtihani ulioko katika Katiba, wawe ni watu wa kisawasawa katika jamii.

Nawaomba, nawarai na nawanasii wenzangu wote, tuangalie sheria hii kwa mtazamo wa kuweka sheria itabadili sheria iliyowekwa mwaka 1948. Sheria hii ambayo haijabadilishwa inazungumza kuwa waziri anayehusika siku atainuka na kuamua ndio siku ambayo mkaguzi ataangalia hesabu. Haimanishi kuwa hesabu zinaangaliwa. Sasa hivi watu wana vilio kuwa ardhi watu walizotoa hawajui vile fedha zimetumika kwa sababu hakuna sheria ilioko. Sheria ya sasa ambayo tunataka kuipitisha inasema kuwa kuangalia fedha zilioko ni lazima zipitie *Public Finance Management Act and the Public Audit Act*, sheria ambazo ukiangalia undani wake, hakuna anayeweza toa chake kitumike kwa ufisadi na hakuna anayeweza toa chake kitumike kwa ugaidi. Nasisitiza kuwa masuala ya waqf ni lazima yatumike. Yule anayetoa ardhi, yake isitumike kwa jambo haliambatani na dini ya Uislamu. Uislamu haukubali ugaidi na haukubuli fedha kuchukuliwa kwa madawa za kulevya. Uislamu pia haukubali fedha zichukuliwe kwa mabaa. Sasa kuna lipi zaidi ambalo halipo, halijangaaliwa, halijazingatiwa, halijawekwa katika nyoyo zetu ili tuangalie haya? Tena nasisitiza tuangalie Chuo Kikuu cha Azhar kilioko Misri. Kilianzishwa na waqf. Leo Azhar University ina zaidi ya miaka elfu moja. Waliopitia Azhar University, wamo Waislamu na wale sio Waislamu. Katika watu waliotoa ardhi zao ziwe waqf katika karne zilizopita mpaka leo, zile dhawabu na yale mazuri hayaendi tu kwa wale miili yao iko chini ya ardhi lakini nyoyo zao ziko juu, lakini kwa wale walioko sasa hivi. Ni madaktari wangapi katika dunia hii ambao wamesomeshwa kupitia *waqf*? Kuna wangapi ambao wamesomeshwa na waqf? Kuna ubaya gani kesho na miaka inayokuja azuke mtoto mmoja kutoka sehemu za Western, azuke mtoto mmoja kutoka Nyanza, azuke mtoto mmoja kutoka Pwani ainuke na awe katika Bunge aseme kuwa lau isiingekuwa waqf iliyowekwa ikatumika kwa mjibu wa kisheria hangesimama hapa?

Nawasii na kuwarai tuangalie sheria hii tukipanua mbavu zetu, tuangalia sheria hii tukiwa tumekubali ya kuwa ni sheria ambayo tayari iko. Lile linafanyika ni kuibadilisha iweze kulingana na Katiba ya sasa.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Nassir, I am aware that you had a legislative proposal on this specific area, but the one of Government has taken precedent. I will give you three additional minutes because of that.

Hon. Abdullswamad Nassir (Mvita, ODM): Mhe. Spika wa Muda, maneno yako ni kuntu.

Mhe. Naibu Spika wa Muda, nilitunga sheria hii kwa sababu tulikuwa tumeona yaliyoko kuwa hakuna hesabu zinazowekwa katika mambo ya waqf. Tuliona yale yaliyoko. Ni mikakati gani zitatumika kuchagua makamishna? Nilipoleta sheria hiyo, Serikali, kupitia kwa aliyekuwa Kiongozi wa Chama cha Walio Wengi katika Bunge, Mhe. Aden Duale, aliniambia kuwa kuna sheria nyingine tayari inajadiliwa, kwa hivyo, ili tusishindane, nikubali yangu iwe nyuma. Nakubaliana na vinara wote walioko katika Bunge na nafurahi. Hata juzi tulikuwa Mombasa tukihudhuria sherehe fulani ya Idd pamoja na Kiongozi wa Chama cha Walio Wengi na akaahidi atahakikisha kuwa hii sheria imepewa kipaumbele na ninashukuru.

Kwa hivyo, nawasihi wenzangu waangalie hii sheria ili vizazi vijavyo viweze kufaidika kutokana na yale vizazi vilivyopita vilijaribu kufanya.

Asante sana, Mhe. Naibu Spika wa Muda.

The Temporary Deputy Speaker (Hon. Patrick Mariru): What is out of order, Hon. Nyoro?

Hon. Ndindi Nyoro (Kiharu, JP): Thank you very much, Hon. Temporary Deputy Speaker. I rise on a slightly different matter. As you know, I have just come back to Kenya from Kampala, Uganda. On our way to Uganda yesterday, we were met with very unprofessional officials from the Immigration Department who humiliated our Deputy President and purported to deny us, Members of this House, some kind of clearance. Upon inquiry from this House...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Nyoro. I cannot get what is out of order. What is out of order? The business in the House is clear.

Hon. Ndindi Nyoro (Kiharu, JP): Hon. Temporary Deputy Speaker, in this House, we have the privilege of raising such issues of national importance. As a country, I do not think that we should just watch overzealous Government officials humiliating a person of the stature of the Deputy President of this nation. However, more importantly, I was travelling to Kampala, Uganda for private matters. I was told, ostensibly, that I needed some clearance from some officials which is against the law and all regulations.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Ndindi Nyoro! Hon. Ndindi Nyoro, it is just that you came at the latter part of this afternoon Sitting. If you were here earlier, you would have known that this issue was raised and the Speaker gave a direction. So, let us not go back. At least, let us remain within the direction given earlier by the Speaker, so that we stay the course. You will check and see the direction that the Speaker gave on that particular matter.

What is out of order, Hon. Millie Odhiambo?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Speaker. With utmost due respect to the Bench, I have noted with concern that there is a growing practice. There are Members who are given too much leeway to be completely out of order. Even earlier on, there were Members who came to this House, including the Hon. Member who is speaking, donning party colours. I have been here for three terms, but I have never seen such abhorrent behaviour. This is the National Assembly. As much as you want to have them as

very able competitors, we agreed that you can raise those issues procedurally before this House. We cannot give that leeway on a matter that has been raised and dealt with. I am sure he was listening. You are giving him so much leeway to interrupt when we are dealing with serious issues of the Wakf Commission.

I am concerned about the leeway that we are giving some parties in this House. I am very concerned. If we continue like this, I will come here donning orange and dance on the Floor because we can also be crazy. So, if he wants to go that way, we will...

The Temporary Deputy Speaker (Hon. Patrick Mariru): Order, Hon. Millie. Hon. Wanyonyi, you have the Floor.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Hon. Temporary Deputy Speaker, I have been listening. I take this opportunity to make my remarks. We need some clarifications which have been given. Therefore, I agree with the House that, first of all, we have had this law since 1951 when some of us were not even there. The purpose of it coming before this House is for us to rectify and make sure that it is not necessarily Islamic. It has been made very clear that this is not necessarily Islamic although it was moved by the Islamic community and has been there for some time.

I agree that because of corruption in this country, properties that have been given out by well-wishers in this country have been lost. Some were meant for helping the poor, the needy and families that are lagging behind. We have recently had cases of corrupt people taking advantage of properties set aside for waqf. Therefore, there are some questions that need to be answered, one of which was asked by Hon. Millie. The Chairperson of the Committee should have independently looked at this before. One of the questions is: How were these trustees appointed? You cannot just pick some people because they are Muslims or because they come from Mombasa or some other place. Today, Islam is practised all-over the country. In my county and constituency, there are mosques. People are free to join Islam, Christianity or anything else.

The mistake that we made in this particular Bill is that the Chairperson did not look at it to remove some of the things that have been raised, so that it should not be looked at as if it is actually Islamic. The idea is good, but we must have accountability in whatever we are doing. This needs to be reviewed by the Committee concerned so that when it comes here, we now talk of it as a national issue rather than looking at it as an issue that only concerns the Islamic religion. The question is - and we will raise it during the Third Reading of this Bill - if we pass this particular Commission that will handle the monies and properties that are donated, will it benefit only the Islamic community or Christians, whatever the neighbourhood? Like somebody said, within his community, there are Muslims who live with them. Will it be the same thing?

This was also raised by Hon. Chris. It appears that it was a bit premature for this Bill to come to us now. You can see that by the time it will come to the Third Reading, it will be something else. They should have actually looked at it and removed some of the items that are raising issues. Even the last speaker mentioned the same thing. I am really torn between Christianity and whatever, which is not very good because the idea is good, but when it comes down to some issues that are being raised in this House, there is much more than we can answer. Therefore, I do not want to take this opportunity to say that I support or reject the Bill. I want to wait for the Third Reading before I take my position.

Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. Duale Dahir.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Duale Dahir.

Hon. Mohamed Duale (Dadaab, KANU): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to talk on this Bill.

First of all I thank Hon. Duale for coming up with the WAQF Bill. I thank all Members who have spoken on the Bill before me. The WAQF Bill is an endowment fund. The concept is basically Islamic. It is always good. It is to help weaker people in the society. It is for those who have more to give out, and for those who have a good heart to also contribute to the welfare of the common people. In line with the Constitution of this country, the Bill is within the context of our laws. It will contribute to the welfare of the citizens of this country. Kenyans who profess the Islamic faith are quite many in this country. They are in many parts of the country. As Members have said, they are everywhere in the country. I have no problem if it contributes to the welfare of Kenyans, wherever they are. It is also good to have it so that the law which will come out of this will be within the laws of Kenya. That is so that those funds can be managed in line with the laws and regulations of this country.

With those few remarks, I support the Bill. Thank you so much.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Adagala, Member for Vihiga.

Hon. (Ms.) Beatrice Adagala (Vihiga CWR, ANC): Thank you, Hon. Temporary Deputy Speaker. I want to also make my contribution towards this noble Bill. It has been moved by Hon. Duale.

I support it with the amendments that Hon. Millie Odhiambo, *Geza Geza*, is talking about. Let us not have differences between Muslims and Christians when it comes to such kind of Bills. This is the National Assembly that is dealing with Bills concerning all Kenyans. I would wish to say this: I think this Bill is the right one, it has to be passed. We have seen several places where money has been contributed. I have seen there was a complaint in a county somewhere where money came to a particular mosque and it was embezzled. When laws are put in place, it can assist. If commissioners are appointed, it can assist in running such kind of issues.

In my county of Vihiga, I have Muslim faithful who are my voters. I want to voice this clearly to them, that we are in total support of this Bill. I think the Departmental Committee on Justice and Legal Affairs should finish up the few areas that need to be worked on so that this Bill is passed. We are having several needy cases that need assistance. As much as a Member here said that Christians also receive offerings, *sadaka* or *fungu la kumi*, it is high time the country put up laws that can manage and make these funds managed well so that they can benefit the few disadvantaged members of the community. Like now we have no time for fees and so forth. You will hardly find the National Government Constituencies Development Fund (NG-CDF) or the National Government Affirmative Action Fund (NGAAF) and other funds being enough. Right now most of the Members are stressed on how to cater for fees requirements in the constituencies and counties. So, once such organisations are recognised and the WAQF Bill is passed for the Muslims to see how they can get in other funds to assist, this can be of great assistance to our country and people.

Therefore, I think this is a noble course. We have to support it so that it can benefit our people, especially during these hard times of COVID-19. The economy is down. People are having it rough. Kenyans are surviving on less than a dollar. It is so terrible. So, I will support this Bill. The WAQF Bill should pass urgently. I wish that the Departmental Committee on Justice and Legal Affairs does the work urgently so that we pass this Bill before this Parliament is dissolved. The Bill should be in operation and assist our people.

On that note I wish to support. Thank you for giving me this opportunity to give my voice on this noble cause. Thank you very much.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Ali Athman.

Hon. Ali Sharif (Lamu East, JP): Asante Mhe. Naibu Spika wa Muda kwa kupata fursa hii kuchangia Mswada huu wa waqf. Wengi wamezungumzia suala hili la *waqf*. Ningependa kueleza kwamba ni vyema kwanza tufahamu maana ya *waqf* ndiposa tupate yale maelezo kamili, ingawaje Mhe. Duale ametueleza.

Waqf imekuweco katika nchi hii na imekuwa ikitambulika na nchi hii. Ni muongozo umekuwa ukitembea ama ukiendelezwa na Waislamu. Hivi sasa Mswada huu umefika hapa bungeni kwa marekebisha zaidi. Hii ni dalili kuonyesha kwamba umechukua mkondo wa sheria ya nchi hii inavyotakikana. Lakini, ni vyema vilevile tufahamu ya kwamba utaratibu na muongozo ambao unatajikana hususan katika suala hili, tukiwa kama Waislamu na Wakenya, unafahamu kwamba Uislamu una muongozo wake na nchi ina muongozo wake katika masuala ya dini. Ndiposa hata katika Katiba imeelezwa waziwazi kwamba kuna uhuru wa kuabudu katika dini. Kwa hivyo, nashukuru pakubwa kwamba nchi hii imetambua dini zote na muongozo yao inavyoendeshwa katika dini hizi.

Hapo awali kumekuwa na *waqf*. Lakini kwa masikitiko makubwa, muongozo wa waqf umekuwa ukiendeshwa kwa namna ambayo hairidhishi ama hairidhishi Waislamu. Ndiposa utaratibu huu umeletwa hapa bungeni kupitia sheria kikamilifu. Tunaamini kwamba ni utaratibu ambao utakuwa na muelekeo ama muongozo kamilifu. Hili ni jambo muhimu sana katika jamii. Mara nyingi tunaona watu wanakuwa na matatizo katika elimu; watu wanakuwa na matatizo katika afya; watu wanakuwa na matatizo katika jamii. Lakini, ikiwa jamii haina muongozo katika kusaidiana katika haya, ndipo utapata kwamba huyu yuko huku anatafuta msaada na yule yuko kule anatafuta msaada. Ninaamini pakubwa malengo ya huu Mswada wa waqf ni ili wale wameelezwa kuwa na mali ya kutosha au wako na rasilimali za kutosha, wanatoa rasilimali hizi kupitia kwa kamisheni hii. Rasilimali hizi zinaweza kusaidia kuendelea jamii kwa masuala ya elimu, masuala ya ugonjwa, na masuala mengineo ya kijamii. Ni matatizo ambayo tuko nayo.

Mhe. Naibu Spika wa Muda, ninafikiri unayaona katika jamii. Si vizuri kwamba hatuna muongozo na ni jambo ambalo liko katika dini ya Kiislamu na dini zote. Utapata kwamba watu wanatoa sadaka wakienda makanisani. Wanaamini pakubwa kuwa sadaka ile itaenda kujiendelea katika mambo ambayo watayaona na kuyafurahia. Malengo makubwa ni kwamba mtu apate ujira wa kile alichotoa.

Hususan, katika dini ya Kiislamu, hiki ni kitu unachokitoa ambacho kama kilivyoielezwa, kitakuja kukufaa kesho mbele ya Mwenyezi Mungu wakati umeondoka duniani. Kile ukonacho katika ulimwengu huu, utakiacha hapa. Utaenda mbele ya Mwenyezi Mungu ukiwa umeacha kila kitu hapa duniani. Unapoacha kwenye waqf mali yako ama chochote kile ukonacho, ina maana kuwa hata kesho utakapondoka duniani, kitu kile kitaendelea kukusaidia katika wema wako ambao utapata mbele ya Mwenyezi Mungu. Sio lazima kwa Muislamu ama kwa mtu yeyote ambaye anapaswa atoe hii sadaka ama waqf, bali ni kwa hiari yako. Watu wafahamu vile vile kwamba kitakachopatikana katika *waqf* hakijatoka katika pesa za Umma. Pesa za Serikali hazitaenda kwenye waqf bali ni zile zitakazotoka kwa watu binafsi ambao watoa kwa hiari yao kwa sababu ya kutarajia malipo ama *reward* mbele ya Mwenyezi Mungu kesho ahera. Haya yanafanyika kwa ndugu zetu Wakristo na Waislamu.

Kwenye huu Mswada wa kiislamu, utaratibu ulioko katika muongozo huu ni kwamba umekuwepo hapo awali lakini haukuwa na natija yeyote katika uislamu. Yameelezwa matatizo kwamba kuna baadhi ya vitu ambavyo vimetolewa kama waqf lakini kwa hivi sasa vinatumiwa

kwa namna isivyo. Mheshimiwa Mishi ametoa mfano kuwa kuna raslimali ambazo ziko Mombasa zinazotumiwa kwa njia isiyo ya haki. Kwa hivyo, kutokana na hali hii, tume hii ya *waqf* haiwezikufanya lolote isipokuwa kupitia Bunge hili na kuweza kuweka makaribisho haya kwa usaidizi wa Wabunge ili kuweza kurekebisha na kuendesha utaratibu huu kwa namna yake.

Kama nilivyosema, tunao wengi ambao wako tayari kuyafanya haya – kuweka fedha zao na raslimali zao kwenye waqf ili zisaidie jamii. Lakini, inafaa kuwe na muongozo. Hakukuwa na utaratibu au sheria ya kisawasawa. Ndiposa watu wengi walikosa imani ya kufanya jambo kama hili. Ninaamini pakubwa kwamba tutakapopitisha Mswada huu, muongozo kama huu utapatikana na zile hali za jamii kuwa na taharuki ya kwamba pengine wanapatikana na tatizo la kusoma na kujiendeleza, nafikiri mambo haya yataweza kuepokana na ndugu zetu kama hao katika jamii.

Ifahimike kwamba katika maswala haya ya kidini, sote ni ndugu. Utapata kwamba Muislamu anachangia ujenzi wa kanisa na Mkristo vilevile anachangia ujenzi wa msikiti. Kwa hivyo, jambo hili lisilete tafaruku eti kwamba labda pengine kuna muongozo fulani umepangiwa Waislamu kutimiza malengo yao. La. Hii ni kwa sababu wale wanaohusika na utaratibu huu ni wale watakuwa nao. Ninachofahamu ni kwamba hata Waislamu wakiona ndugu zao Wakristo wako na matatizo, wako tayari kuwasaidia lakini ifahamike kwamba ni katika muongozo wa dini ya Kiislamu. Kuna mambo mengine yana muongozo wake. Ifahamike kuwa pesa zozote zitakazokuwa katika waqf, ama raslimali zitakazokuwa pale ni raslimali zitakazochangwa na watu kwa hiari yao. Pesa za Serikali hazitaekezwa pale pengine zisaidie watu waislamu ama wengineo bali ni utaratibu wa kidini ambao umewekwa kwamba unapokuwa na chochote, iwe fedha ama raslimali, unaweka katika *waqf* ili ikusaidie kesho mbele ya Mwenyezi Mungu. Kile kitu unachoweka ndicho kitakachoangaliwa kisawasawa. waqf ikiangaliwa vyema, itaweza kuwasaidia watu katika jamii.

Kwa hivyo, ningependa ndugu zetu Wakristo wafahamu kuwa suala hili halina utata baina ya dini.

Kwa hayo machache, naunga mkono.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Odhiambo.

Prof. Jacqueline Oduol (Nominated, ODM): Thank you, Hon. Temporary Deputy Speaker for giving me an opportunity to contribute to this Bill. I support the Bill with amendments, a number of which were clearly articulated by Hon. Millie Odhiambo.

Looking at the Bill, the principle object is to establish a Wakf Commission for administration of property donated to waqf and, indeed, repeal the Wakf Commissioners Act, Cap. 109, Laws of Kenya.

Having listened to the debate, it is clear that of paramount is the desire or the concern to enhance accountability by the management of the funds thereof in order to promote fairness and ensure that such funds reach all the intended beneficiaries or recipients.

In a way, it is good that as Members of Parliament, we have the role of scrutinizing this Bill and reflect on the manner in which it is presented here. I am not a lawyer but my experience has been that the devil is usually in the detail. As we perform our role of legislation, it is important that we take time to reflect on this Bill to see whether there are areas that contravene the Constitution or evoke sentiments that seem to encourage discrimination.

I have listened to Hon. Aden Duale second the Bill. I have also listened to Hon. Sankok discuss the Bill as a platform to champion donation to charity. We must not evangelize and try not only to compare one faith with the other but to present it as we listen to the citizens of our country, all of whom before the Constitution and in terms of how we would like to organize ourselves, are not only deemed to be equal but are indeed encouraged to treat one another in that manner. It is of

great concern to me that we would look at this Bill, which is now the property of the National Assembly, from the perspective of enacting laws to help us find ways of ensuring that we pull together by providing for frameworks and regulations that will ensure that we administer this waqf in all fairness as required and in keeping with the Constitution.

It is a concern to me that we would “sing” on the Floor of the House to appear not only to be championing the course of one faith – and unfairly so because as it has been indicated, this is no longer a Bill for a particular faith – but it appears to be championing the course of one faith as opposed to other faiths. Allow me to indicate that integrity is the cornerstone of our Constitution, an area we continue to grapple with. My understanding, as I support this Bill, is that it seeks to ensure that the WAQF Commission would be in a position to ensure that there is integrity.

Good governance is another area where we continue to aspire towards as a country. It is in this regard that I support the Bill.

However, as I conclude, I look forward to the amendments. We should seek to ensure that the Bill, with the objects as spelt out, is crafted in a way that will keep up with all the constitutional requirements and enhances a sense of togetherness, inclusion and acceptance of all Kenyans, irrespective of their faith. I hope that it does not skip the attention of any of us regardless of our faith that, ideally, if we were to practise our faith, we would not even need to revert to the law. As Christians, we resort to law because to a large extent we tend to be working on our faith in spirit but hardly so much in truth. As we look at the law, I urge all of us to desist from going back to religion and talking about faith and practices. The very fact that we have this Bill before us is a demonstration of what the Holy Book says in Romans that all have sinned and fallen short of the glory of God.

Regardless of what faith we demonstrate and how proud we are of it, it is my sincere belief and opinion that we must look at this Bill from the perspective that is spelt out in the objects. We would like to ensure that the WAQF Commission enhances accountability and promotes fairness. It should not only give a very clear indication of how funds need to be received and processed, but also specify that as we define the law, we are not excluding any categories of Kenyans, especially on grounds of their faith.

With this, I thank you. I want to remind all of us that in the parlance of conflict resolution and peace building, there are always very clear early warning signs. Research and practice all over the world should help us see the early warning signs. Part of the dialogue, exchange and the manner in which this was presented is an early warning sign of getting Kenyans to disagree on religious grounds. We should also remember that we are on the verge of elections and should be careful that we do not ignore early warning signs. We should seek to manage conflict instead of waiting to act to resolve it after everything has blown up.

Thank you, Hon. Temporary Deputy Speaker. Once again, I support the Bill, subject to amendments.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. Sheikh

Hon. Mohamed Mohamud (Wajir South, JP): Thank you very much, Hon. Temporary Deputy Speaker. I appreciate that I can contribute to this very important Bill. This is an important Bill to our Kenyan society and the people that actually value the issue of supporting social capital. It is important because it will safeguard and put in place regulations that are necessary in managing Waqf. This House needs to know that Waqf was started around 670 A.D., that is, about 1,400 or 1,500 years ago. Waqf has been a contributor to societal building. It is the engagement of society in the search of livelihoods.

If I can give a very simple example: around 690 A.D, Said Abu Bakr, the first Caliph of Islam, contributed a Waqf of wells, so that the young Muslim society at the time could benefit. Saudi Arabia was in the desert; a place where water was scarce. Waqf was contributed at around that time. It eventually evolved. It continued. It has contributed to the values that society can share, namely, the haves and the have-nots. Other religions have been doing the same, but in their own ways. Alms are paid in form of *sadaka* by every other religion.

There are two types of contributors to Waqf: one is the obligatory alms called the *zakat* that I am supposed to pay from my wealth. It is 2.5 per cent annually. That is essential wealth for the poor, the marginalised and societies that lack the capacity to fend for themselves. It was more of a contribution towards their support. It guarantees that everyone with wealth or some sort of income that can reach a particular threshold contributes 2.5 per cent of their wealth every year to the poor. Therefore, it was about 'sharing is caring'. It was about caring for those that were under-privileged.

There was also another contributor to waqf, namely, *sadaqah*. *Sadaqah* is payable every minute of your time. Now that M-Pesa is there, I can pay *sadaqah* every minute. I can send it to anybody in any corner of this country. That is an important contributor to the Waqf. Waqf is more of a societal kind of venture that they contribute to look after the vulnerable, orphans, the elderly and the very poor. Those are the people who benefit from that.

I realise that Kenyans are people that share what they receive and get during their toils. Making sure that Waqf is actually pegged on our laws will streamline a number of regulations. In the beginning, I thought about it. If we bring Waqf into the laws of the country, there will be challenges for those who might be manning some of those regulations. They may not really understand. We have seen the ignorance of the new Chief Justice who claims that women can become part of the clergy. It is unfortunate that they do not understand the most important fundamentals of our societies. It is about looking at the holy books, the orders and the laws that have existed centuries in, centuries out. Will it also fall in the same cracks within the law? We should look at the way it is managed. Maybe it will not be managed through the holy scripts or the right scriptures that began in 670 AD. Will it be counterproductive to the way people have been working throughout in handling this?

We inherited the Waqf from our forefathers and have carried it on. I have been a contributor to that. I have a Centre of Excellence for girls. It is an orphanage that has over 120 girls who are supported through the Waqf. They are vulnerable girls who require to be supported and educated. That is how we are contributing in my constituency for these girls. Will these regulations look into a proper way to support the Waqf as has been in the previous centuries? That is one aspect.

It is important that we put this matter into regulations and law. This Bill will add to contemporary management of the Waqf. As days move on, the world changes and that means that ancient ways and means of working must change. Therefore, the contemporary means of management of the Waqf, through a Bill as such, will support a process that is acceptable to all societies. The Waqf is pegged on religion, that is, through the *zakat*, which is a compulsory payment of 2.5 per cent of one's income.

Societal cohesion has always been there but has been wobbling in the sense that things are not being done through proper channels and well-versed processes. So, this Bill will place that process in the laws of this country. Other communities can join our processes. It may be done by any other person from a different religion, that is, the compulsion to give two-and-a-half per cent of one's wealth to a particular Waqf.

I need not hold this House further because I cannot support less this important Bill. I see that it will be a contributor to a better society in terms of management of our funds and monies. May I say that any other individual who does not understand the actual meaning and importance of this needs to open up the books, the laws that established Waqf in 670 AD and carry on from there.

Therefore, we do not need ignorant people to come and tell us how this can be done. I thank you very much Hon. Temporary Deputy Speaker, that should suffice for me to support this Bill.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. (Dr.) Nyikal.

Hon. (Dr.) James Nyikal (Seme, ODM): Thank you, Hon. Temporary Deputy Speaker. I rise to support this Waqf Bill. This Bill is important; it provides a framework for managing endowments that are given for charity. I think in every society, it is important that charity is given and properly managed. If it is done in line with the Islamic religion, I see nothing wrong with that because in the other many laws that they have, they take into consideration other religions. If for instance you take the Marriage Act, it looks at the traditional practices and all the laws. That is acceptable because the law accommodates all of us. If you look at the Insurance Act, there is Takaful which is Islamic. It is something legal and is going on. There is also Islamic banking. These are things with provisions in the law and so I do not see any problem with that as long as every aspect is looked at. We obviously will look at how it relates with other similar laws like the Unclaimed Property Act and the Public Trustees laws that we have. So, in my view, it just fits in our legal framework.

This, as we have learnt, existed many years ago, although at that time it provided for what was then seen as a smaller community in a restricted area. Now that has expanded and we have to expand the law as well. Also, the laws that created the Commission then in 1948 are now not relevant and it is better to now look at it. Muslim leaders saw this as necessary and made a petition to the Government that resulted in this Bill. In my view that is something that is commendable; turning our practices into law. This Bill provides a way that makes people who want to give to the Waqfs comfortable that the resources that they give will be used as they wanted. It also provides the structures of how these resources will be managed. The setting up of the commission... We have asked how the members are identified but that is something we can look at in the Third Reading during the Committee of the whole House.

This Bill also provides how these finances are managed, how the commission is managed and how the Waqf are registered. I find that structure is necessary for us. The Bill also provides on how enquiries can be made in circumstances that the Waqf has not been used properly and how they can be disposed of. It is important that they look at unclaimed assets. That is why I was asking how will it relate with the other laws that deal with that?

Most important to me is that the Bill provides that these resources and the Commission will be audited through the Public Audit Act which brings them into the law as much as it should be. So, in my view, this is a law we should support so that people who get help with monies and resources do so without losses that would occur if we did not have such a structure. As to whether it will be restricted to Muslims is something that Members have contributed to. We can look at the law and say that as much as it is based on the Islamic laws even Islam itself provides that all people should be supported if they need the help. So, I support this and we will look at the appropriate amendments when we come to the Committee of the whole House.

I support and thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Let us have Hon. Mbogo Menza.

Hon. Mbogo Ali (Kisauni, WDM-K): Thank you, Hon. Temporary Deputy Speaker, for giving me this opportunity to add my voice to this important Bill. I wish to make it very clear that I support this Bill because it is timely. For information purposes to my colleagues, we already have the Wakf Commissioners of Kenya that is already operating and existing in this country but it is mostly felt in the coastal region. However, the current laws that we have that are managing the Wakf Commissioner of Kenya are pre-colonial. These are the laws that were enacted in 1948 and are not in line with our Constitution.

The current laws are very discriminatory because they only consider Muslims to be Arabs. But as we know this country has more than 43 tribes and they all have Muslims. The new Bill proposed by Hon. Duale will address this issue and a Muslim will be identified as a person who professes Islam. If you look at the current law, we have a Commission already operating in this country but, we do not know how its commissioners are selected, their qualifications and its constitution. This is because they are being governed by laws enacted many years ago.

The law currently being proposed will address so many issues. First, is the issue of transparency because as we speak there are two types of Waqf; we have a private Waqf and public Waqf. The private Waqf is where a member contributes his assets to help his own family. We have a public Waqf whereby whatever you contribute goes to help the public at large. I agree with my colleagues when we come to the Third Reading during the Committee of the whole House, we will bring amendments. This is because we need to address the issues of private and public Waqfs. If we leave it open yet we know these two types of Waqfs are being practised in the country there will be a gap. There is need to ensure we align whatever the WAQF Commission will be doing. When we get to the Third Reading of this Bill during the Committee of the whole House, I will also bring my own amendments to ensure we align the private and public Waqfs.

Today, we have so many assets belonging to the Muslim community that have never been claimed. Yet, we have a WAQF Commission of Kenya which does not have powers and means of claiming those assets, to ensure they support and propagate the welfare of Muslims and less fortunate ones in the society. This has been brought about because of lack of faith and confidence of the WAQF Commission that exists at the moment, because of the gaps I have just mentioned. That, we do not know how this Commission is selected, management of their funds or how much funds or money they raise in a year. This is because there is no audit, accountability or transparency.

So, Hon. Duale has not brought a new Bill but an amendment of what we have in the country already. This should not be a reason for Muslims and Christians to fight. We have coexisted in this country and today, we have Muslims among the Luos, Turkanas, Coast and all over the country. So, we are one family and whatever the Bill is trying to do is to bring order, sanity and accountability so that monies or funds contributed by Muslims or any other person can be accounted for and seen to be doing what is required.

The new Bill will also strengthen our institutions because it is proposing to have a Director-General who will be responsible and be the Chief Executive Officer (CEO) of WAQF Commission. As we speak today, we have a Secretary General in charge. So, the new Bill is proposing the best way to govern and manage the WAQF. We are looking at billions of shillings channelled through the WAQF Commission. I have a practical experience in my own constituency where there is so much land that was contributed by their owners to the Wakf Commission of Kenya. This is to support the welfare of the less fortunate people in society but you will be surprised that land worth maybe Kshs300 million, has been leased in a way that nobody knows for

Kshs12,000 a year. You can imagine the kind of revenue that is being realised out of that land but at the end of the day, we do not know how these funds are channelled and where they go.

Hon. Temporary Deputy Speaker, with those few remarks I wish to fully support this Bill. I wish my colleagues understand that we are not fighting any religion in this matter but trying to bring sanity in the laws we have by aligning them with the Constitution 2010.

With those few remarks, I fully support it.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Shall we have Hon. Amin Kassim.

Hon. Rashid Kassim (Wajir East, WDM-K): Thank you, Hon. Temporary Deputy Speaker. I stand to support this WAQF Bill initiated through the House. Waqf is an extremely useful endowment fund used over the years in a number of Islamic countries. It is useful in the sense that it is a willing collection of individual contributions from individual members to this endowment fund. It has a certain set of criteria of ways on where it is to be used and how. Currently, these payments in terms of Waqf are ordinarily done either individually or publicly. There is no formal structure or institution able to formalise, use and create criteria for its usage and collection, so it can be followed by each and every individual contributor of the endowment fund.

This endowment fund is a willing contribution intended to support the less fortunate individuals in our society. Currently, there is no formal way of doing this. The country has its specific contribution through the exchequer which has its way of disbursing money to its nationals. But endowment funds do not have a specific way of getting money from the exchequer. This is there to bridge the gap that exists between the less fortunate and able members of our society so that we can meet their obligations and needs. Basically, this endowment fund will meet and support the less fortunate individuals.

Some of the areas it supports are orphanages. We know very well they get certain contributions from the Government but there is no specific funding which goes to specific orphanages and the children who are equally disadvantaged. It is an Islamic responsibility for us to support them and there are specific surahs of the Quran which state that orphans should be supported but there is no specific fund. We feel that this endowment fund will cater for the less fortunate, orphans and widows who ordinarily do not get the exchequer support. Basically, this fund will also support other institutions.

Currently, there is a 10 per cent willing contribution to various churches existing in this country. Every Mosque has certain collections done on a daily basis but this is not regulated. The churches' collections and mosque funds are not properly regulated. With the creation of this Bill and endowment institution we will regulate all collections and give specific criteria on how it will be disbursed, whom it will be disbursed to and eligibility. So, it will create sanity in terms of disbursements. Also, for those specific contributors making contributions they will feel their money and collections are properly organised and disbursed in a specific criteria and people will be more willing to contribute further to this endowment fund.

Therefore, this Bill will create a clean and supportive environment which will increase the collection centres and provide certain criteria on how monies will be used. More critical is who will man this Commission. The people who will man will not be ordinary members of this society but should be very pious. People who are really concerned, accountable and do funding and disbursement in a very transparent manner. So, how we craft and operationalise this Bill will be quite significant on how it will be rolled and accepted by each and every individual contributor of this society.

So, clearly as we proceed to the Third Reading, we will be able to make an amendment so that this Waqf fund is not only associated with a specific religion or group of the society; rather it should provide certain criteria on how it is going to be used. It should be clear how it is going to be structured and how it is going to be disbursed so that it is an acceptable endowment fund. Also, the Government should be able to follow up on it. Currently, there could be some other funds which are set up in very dubious ways. An example is the money that comes through laundering and other unrecognised means. So, basically the Government must also oversee the expenditure of this money. It must know how much it is and how much impact it has. The Government is going to have a proper structure for it.

I find this endowment fund the best thing that can ever happen in Kenya because we are going to support the less fortunate, including institutions that are currently housing very disabled and affected members of the society, particularly widows and orphans.

It is also going to support education. Education is the greatest thing. It is an equaliser. The fact that this fund can also be used to expand educational institutions, particularly Islamic institutions, means that it will support those institutions. I believe this Waqf Bill is very timely. The fact that we are deliberating it in this House is a great thing. I fully support the creation of the proposed fund.

Thank you very much, Hon. Temporary Deputy Speaker, for giving me this opportunity.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Finally, we will have Hon. Nyenze Edith and then we will go back to Hon. T.J. Kajwang' to bring back the earlier prayer on this Bill.

Hon. (Ms.) Edith Nyenze (Kitui West, WDM-K): Thank you, Hon. Temporary Deputy Speaker. Let me say at the outset that I have learnt a lot about the waqf and it is a very noble idea. It is a very good Bill but I also note that actually if we practised our faith properly and we are led as the good book says, we would not need many of these laws.

I have also noted that the Waqf Bill is actually trying to provide for controls and bring sanity in the management of these funds, which have been collected for a long time. It is a very good practice to actually give to the poor. I have noted that the Bill is trying to bring up a framework for charity. From this Bill, we will also have commissioners who will be registered as per the Bill. This Bill is going to help even succession, which will be done after one has contributed.

My concern is whether this Bill might open a Pandora's Box whereby members of other faiths may feel that they also have their own Bills which should also be brought to Parliament. But if the passage of this Bill will bring sanity in the management of those funds, why not pass it? This is because other faiths also contribute towards the poor. They contribute through their policies towards education, construction of God's houses and undertake so many other projects. If this Bill goes through, then other faiths could also learn from it and, if possible, bring their own policy frameworks for validation so that they can also have some sanity and controls in the management of their funds.

When this Bill goes through, it is important to actually differentiate whether the funds will go to individuals, families or to the public. If the funds get to the public with the help of a Bill that has been passed by this House, then, maybe, it will open up the way for other people who are not Muslims to also benefit. In doing so, the Government will also be putting funds into this good arrangement.

I note that it is a good Bill which is trying to bring sanity to regulate the funds which have been contributed towards the poor by people who sacrifice whatever they should have enjoyed for

the sake of the poor. This fund should not be embezzled. It should be used for the intended purpose. So, it is important to have a Bill which will indicate who will receive the funds, how the funds will be processed, and who will be allocated the funds in order to avoid corruption.

Also, in the case of family matters, the Bill should show how succession will be done. This will bring sanity in the management of such funds. Going forward, as I have said, it is good also for the other faiths to learn from this and see how their constitutions and policies, as far as funds are concerned, can be controlled in different places.

With those remarks, I support with amendments.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Before we get to Hon. T.J. Kajwang', it looks like Hon. Ibrahim Sahal wants to weigh in on this matter.

Hon. (Ms.) Nasri Ibrahim (Nominated, FORD-K): Thank you, Hon. Temporary Deputy Speaker, for giving me an opportunity to add my voice to this important Bill. The Bill seeks to repeal the Wakf Commissioners Act, Cap 109 of the Laws of Kenya to establish the waqf commission and its composition, functions and remuneration of members of the commission. The Bill also seeks to straighten management of waqf through a transparent and proper way of disposing of property and dealing with unclaimed properties of deceased Muslims. The waqf is one of the strong Islamic economic instruments, which means religious endowment that is related to the religious charitable donations globally. It has been a source of development used in the building of mosques, *madrassa*, educational institutions and libraries. Its benefits are not restricted to the Muslim communities alone. It rather goes beyond religious, cultural and racial boundaries. Waqf is one of the sources of Islamic economic system. The establishment of the waqf commission will promote empowerment of the needy members of society. Therefore, we need to revive the institution. I strongly believe that the commission will be effective and become the strongest Islamic institution of poverty alleviation.

With those remarks, I support.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. T.J. Kajwang', what was your earlier prayer around this Bill?

Hon. T.J. Kajwang' (Ruaraka, ODM): Hon. Temporary Deputy Speaker, I have been listening to Members contribute very robustly on this Bill. As you know, this Bill was committed to the Justice and Legal Affairs Committee. We have been processing it.

I request, Hon. Temporary Deputy Speaker, at your discretion, that this matter be deferred to another parliamentary sitting day when the House will benefit from the views of Members of the Committee. I see a lot of opinions have been well canvassed, but it is necessary on constitutionality of some of the sections of the Bill and to underscore the fact that this is a trust law to regulate voluntarily the wishes of a section of a society, the House will be well guided if those views are put on the *Hansard*. I know that this afternoon this is the far we have gone. But if it is stepped down for another day, we definitely have some people who will give us a better perspective on this issue.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): It is not a point of order. There is no point of order, Hon. Sheikh. The request is made to the Speaker by the Vice Chair of the Departmental Committee on Justice and Legal Affairs, the relevant Committee. Hon. T.J. Kajwang' earlier gave the House an update of progress of how far they have gone in terms of the Report. It is a fair request that we get a chance to have the Report from the Committee and hear the Members of the Committee on how they have engaged the Bill and give a few more Members on this Bill.

So, I accede to that request, Hon. T.J. Kajwang’.

(Bill deferred)

Next Order.

Second Reading

THE JUDICIAL SERVICE (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. Patrick Mariru): Vice Chairperson, Departmental Committee on Justice and Legal Affairs. Yes, Hon. T.J. Kajwang’.

Hon. T.J. Kajwang’ (Ruaraka, ODM): Hon. Temporary Deputy Speaker, this is another Bill that I seek your direction. We are grateful that it has been listed in the Order Paper. It is a Bill which was committed to the Departmental Committee on Justice and Legal Affairs for processing. I report that the Departmental Committee on Justice and Legal Affairs has robustly processed the Bill, but in the course of which there was a three Bench High Court decision that affected the exact section of law that is intended under the Bill expressing the view that it is unconstitutional. That being the fact, my Committee tasked the Legal Directorate to apprise the Bill and give us a legal opinion on where the Bill stands. As we speak, Hon. Temporary Deputy Speaker, I have an opinion which has been drafted by the legal office but it has not been incorporated in the Report before the House. So, I request that again, this Bill be adjourned so that the legal opinion is incorporated for Members to see and take an action. It may well be that the Committee will propose to withdraw the Bill but I do not have to argue before that opinion is before the Members and Members are able to inspect it.

So, Hon. Temporary Deputy Speaker, any short adjournment on this Bill will be for us to put that in the Table Office. Thank you.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Fair enough, Hon. T.J. Kajwang’. We will give you time so that the Committee deals with that tidying up so that the House is not seen to be acting in vain. We give you space and time. I am sure when that is done the House Business Committee will slot it back in the Order Paper for the House to consider.

(Bill deferred)

Next Order.

Second Reading

THE HEALTH LAWS (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. Patrick Mariru): Leader of the Majority Party. You must be acting on his behalf because you are not the one.

Hon. (Dr.) Eseli Simiyu (Tongaren, FORD-K): I am not the one but I have been tasked with that responsibility.

Hon. Temporary Deputy Speaker, I wish to step down the Health Laws (Amendment) Bill, (National Assembly Bill No.2 of 2021). For some of the reasons Hon. T.J. Kajwang’ has expressed for Order No.12, the Report has not been tabled but it is ready.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): Okay. Hon. Eseli, I accede to your request. The Bill is stepped down.

(Bill deferred)

Next Order.

Second Reading

THE NATIONAL HOSPITAL INSURANCE FUND (AMENDMENT) BILL

The Temporary Deputy Speaker (Hon. Patrick Mariru): Yes, Hon. Eseli, I guess you are still acting on behalf of the Leader of the Majority Party.

Hon. (Dr.) Eseli Simiyu (Tongaren, FORD-K): Hon. Temporary Deputy Speaker, thank you. For the same reasons as for Order No.13, I request that the National Hospital Insurance Fund (Amendment) Bill (National Assembly Bill No.21 of 2021) be stepped down for now.

The Temporary Deputy Speaker (Hon. Patrick Mariru): That is stepped down, Hon. Eseli for the same reason.

(Bill deferred)

Next Order.

Second Reading

THE SOCIAL ASSISTANCE (REPEAL) BILL

Hon. (Dr.) Eseli Simiyu (Tongaren, FORD-K): Thank you, Hon. Temporary Deputy Speaker. I again, for the same reasons, ask that the Social Assistance (Repeal) Bill (National Assembly Bill No.16 of 2020) be stepped down.

The Temporary Deputy Speaker (Hon. Patrick Mariru): We shall step it down as well.

(Bill deferred)

Next Order.

Second Reading

THE LANDLORD AND TENANT BILL

Hon. (Dr.) Eseli Simiyu (Tongaren, FORD-K): Again, Hon. Temporary Deputy Speaker, for the same reasons, I request the Landlord and Tenant Bill (National Assembly Bill No.3 of 2021) be stepped down.

Thank you, Hon. Temporary Deputy Speaker.

The Temporary Deputy Speaker (Hon. Patrick Mariru): That is acceded to as well, Hon. Eseli. Order No.16 is stepped down. We are done on that.

(Bill deferred)

ADJOURNMENT

The Temporary Deputy Speaker (Hon. Patrick Mariru): Hon. Members, there being no other business and the time being 6.17 p.m., this House stands adjourned until Wednesday, 4th August 2021 at 9.30 a.m.

The House rose at 6.17 p.m.